A Law Clinic Systems Theory and the Pedagogy of Interaction: Creating a Legal Learning System

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I. INTRODUCTION

Learning from an individual's own experiences is the hallmark of clinical legal education.[1] In the short time that law students participate in a clinical course, clinicians seize the opportunity to teach students how to think, analyze, and self-critique, rather than simply provide answers to the myriad challenges that confront a practitioner each day.[2] Learning from past experiences will inform the student's future practice decisions.

Clinicians constantly search for the best way to teach students how to learn from their experiences, but how do individuals experience their world? In legal education a great deal of scholarship is dedicated to teaching methods that surround experiential learning with less focus on systems learning or how law students and practitioners learn by interacting with the system that is their professional environment.[3]

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[1] *See* Peter A. Joy, *Clinical Scholarship: Improving the Practice of Law*, 2 CLINICAL L. REV. 385, 393–94 (1996); Margaret Martin Barry et al., *Clinical Education for this Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 17 (2000).

[2] *See* Joy, *supra* note 1, at 393 ("By being critiqued, and by engaging in the process of self-critique, clinical students develop their abilities to analyze what they do as lawyers and to learn how to learn from experience . . . ."). *See also* Philip G. Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 184–85 (1996). The article by Professor Schrag outlines many of the same themes discussed in this article. His list of teaching goals for a law school clinic is an excellent guide for the designer and field supervisor when implementing methods that maximize student experiences.

[3] *See, e.g.*, Barry et al., *supra* note 1, at 17 n.65. The word and idea of "systems" in clinical legal education has been used in various ways to introduce and define differing concepts. The systems learning model advanced in this article attempts to define a methodology that explains how students interact with and learn from a clinic environment. *Compare* Meredith J. Ross, *A "Systems" Approach to Clinical Legal Education*, 13 CLINICAL L. REV. 779, 781 (2007), *with* Edgar S. Cahn, *Clinical Legal Education from a Systems Perspective*, 29 CLEV. ST. L. REV. 451, 452 (1980) (providing a different context for the idea of a systems perspective in clinical legal education).

The purpose of this article is to introduce a clinical systems approach that reframes professional experience as an interaction with a professional environment. I argue for clinical faculty and other legal educators to contemplate the pedagogy of systemic interaction when teaching from experience and then expand professional interactive opportunities within the short period of student participation. Clinical systems theory operates on the premise that students should reframe how they look at their surroundings so that the challenges that make up their professional system are not seen as problems but as means to a solution.[4] Reframing by the student is realized in a clinical system as educators maximize professional interactions and teach from emerging interactive patterns.

Clinical faculty can assist students by utilizing the professional relationships of the clinic environment as a target for reflective teaching, demonstrating how a practitioner can learn and grow from professional relationships.

> [Barry, Dubin, and Joy] have observed that, since the early days of scholarly attention to clinical legal education, clinical scholars have "explained that the primary goal of clinical legal education should be to teach students how to learn from experience." A key aspect of this goal has been to help students develop the skill of self-reflection.[5]

Self-reflection allows a student to see her own development as she interacts with a professional system. Equally, a clinical systems theory explains how a student develops and grows from an interactive experience. The central thesis of this article is that clinical programs can become catalysts for positive change, in the legal profession and in society as a whole. Clinical programs can teach students how to effectively marshal the resources of their work community and global environment.[6] Systems

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[4] *See* PAUL WATZLAWICK ET AL., CHANGE: PRINCIPLES OF PROBLEM FORMATION AND PROBLEM RESOLUTION 95 (1974) ("To reframe, then, means to change the conceptual and/or emotional setting or viewpoint in relation to which a situation is experienced and to place it in another frame which fits the "facts" of the same concrete situation equally or even better, and thereby changes its entire meaning.").

[5] Keith A. Findley, *The Pedagogy of Innocence: Reflections on the Role of Innocence Projects in Clinical Legal Education*, 13 CLINICAL L. REV. 231, 238 (2006) (quoting Barry et al., *supra* note 1, at 17).

[6] Collaborative lawyering and relationship-centered lawyering are two movements in the legal profession that place an importance on building and understanding professional relationships. Collaborative lawyering views the practitioner as a problem solver, developing collaborative relationships with a network of other problem solvers who may operate beyond the immediate system of both client and lawyer. Collaborative lawyers intervene on behalf of their clients in ways that expand the traditional role of the lawyer, utilizing resources that range from the client's family to administrators and community organizers. GERALD P. LÓPEZ, REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE 53–54 (1992). Relationship-centered lawyering is made up of different legal perspectives (therapeutic jurisprudence, preventative law, restorative justice and transformational mediation) that were considered part of the Comprehensive Law Movement, originating from the legal professions interest in client-centered counseling. The relationship centered

Theory (as applied in other fields of study) provides a framework for clinicians who wish to maximize student interactions and teach students how to learn from interacting with their environment.[7]

In a law clinic, students learn from three main systemic sources: learning from people they work with and for, learning from clients (including the client's social and professional system), and learning by interacting mentally and emotionally with self.[8] Throughout her career, a practitioner will draw from the resources that are her environment. For example, her supervisors and colleagues, as well as judges and opposing counsel, will serve as a continual resource for information, assistance, strategizing and reflection. One shortcoming faced by many practitioners is the inability to effectively interact with individuals who make up their environment.[9]

Some clinical programs will fall short of their task, not because clinical faculty fail to implement the proper teaching methods of experiential learning, but because the clinic is not designed to encourage the formation

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approach encourages lawyers to gain insights into behavioral sciences including family systems theory and the fields of emotional intelligence and cultural competence. David B. Wexler & Bruce J. Winick, *Foreword* to RELATIONSHIP-CENTERED LAWYERING: SOCIAL SCIENCE THEORY FOR TRANSFORMING LEGAL PRACTICE X (Susan L. Brooks & Robert G. Madden eds., 2010). It places an emphasis on lawyers building "social capital" in the community, drawing upon developing interactive skills to form social connections and building networks so communities can function at higher levels. Susan L. Brooks & Robert G. Madden, *Visions and Recommendations for Improving Legal Outcomes through the Application of Relationship-Centered Lawyering*, *in* RELATIONSHIP-CENTERED LAWYERING: SOCIAL SCIENCE THEORY FOR TRANSFORMING LEGAL PRACTICE 367–70. *See generally* DAVID A. BINDER, PAUL BERGMAN & SUSAN C. PRICE, LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH 2–13 (2d ed. Thomson/West 2004) (discussing client-centered counseling).

[7] *See generally* Ross, *supra* note 3, at 781. Professor Ross's definition of a "systems approach" is "emphasis on teaching law students how particular systems—such as the criminal justice system, the mental health system, or the juvenile justice system—work at a day-to-day operational level" including the "broader understanding of the complex interrelationships involved in how systems work." *Id*. The approach outlined in this article is (similar but different) in that it utilizes the model of "systems theory" in other disciplines to explain how students can develop, learn and grow by interacting with different systems as part of their clinic experience.

[8] *See* Anthony L. Suchman, *A New Theoretical Foundation for Relationship-Centered Care: Complex Responsive Process of Relating*, 21 J. GEN. INTERNAL MED. S40 (2006) ("In a landmark 1994 monograph, a distinguished group of researchers, educators, and practitioners asserted the fundamental importance of relationships in health care: relationships between patients and clinicians; among members of interdisciplinary health care teams; between the health care system and the community; and—especially noteworthy—the relationship of the clinician with her or himself. The concept that they introduced, relationship-centered care (RCC), represents the most recent step in a long-standing movement to advance humanism in medicine—to complement the objectivist and reductionistic approach of science-based practice with a sensitive and empathic approach to the patient's subjective or lived experience of illness." (internal citations omitted)).

[9] *See* PETER F. DRUCKER, MANAGING THE NON-PROFIT ORGANIZATION: PRACTICES AND PRINCIPLES 157–60 (1990) (emphasizing the importance of building strong professional relationships when operating in a non-profit organizational setting). *See also* Jennifer A. Gundlach, *"This Is a Courtroom, Not a Classroom": So What is the Role of the Clinical Supervisor?*, 13 CLINICAL L. REV. 279, 290–95 (2006). Professor Gundlach discusses how judges, clients, court house personnel and opposing counsel can play an "educational role" when students interact with others in court. *Id*. at 291. Many of her themes are discussed in this article, specifically, how students can learn from clients. *Id*.

of student-professional relationships.[10]   Teaching from experience is impossible if numerous, complex and diverse interactions do not exist in the clinical setting. Clinical educators should teach law students how to draw on the people in their professional lives to effectively maximize their advocacy.[11]

In this article, I will explore techniques to maximize experiences based on professional interactions within the law school clinic. In addition, I recommend a pedagogical approach to clinic design and teaching by advancing a clinical systems theory, explaining how law students develop and grow by interacting with their "learning system" environment.[12] This piece provides a theoretical framework for creating and organizing student clinical experiences by investigating the teachings of different creative thinkers in many different disciplines, including clinical legal scholarship, educational theory, complexity theory and, most importantly, a general systems theory as applied in family therapy, management and the theoretical sciences.[13]

In Part II of this article, I explore the field of General Systems Theory and extract from its many multidisciplinary contributions the ideas that

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[10] *See generally* Linda F. Smith, *Designing an Extern Clinical Program: Or As You Sow, So Shall You Reap*, 5 CLINICAL L. REV. 527, 544 (1999) (recognizing differing expertise of both legal educators and field placement supervisors in teaching law students).

[11] *See generally* Gundlach, *supra* note 9, at 290–91.

[12] In the first half of the 20th century, professionals from different fields of study broke away from a traditional analytical approach and applied a new methodology to their respective research. Some discarded the traditional mode of thinking championed by Descartes, that complex systems could only be analyzed by breaking them down into smaller parts. FRITJOF CAPRA, THE WEB OF LIFE: A NEW UNDERSTANDING OF LIVING SYSTEMS 29–30 (1996). Both social and physical scientists abandoned this reductionist paradigm (studying the reduced parts of a system) and embraced a new mode of thinking that emphasized connectedness, relationships and context (systems thinking). *Id*. Scientists realized that the individual parts of a system lack properties possessed by the whole system and that these properties came from the interaction and the relationship between the parts. If researchers analytically destroyed or ignored the system as a whole, they lost insights into the entire system that could not be ascertained from studying its smaller reduced parts. *Id*. It was the relationship between the parts that gave true insights into the properties of the whole system. To understand the properties of the parts the theorist had to study the organization of the whole. *Id*. *See also* PETER SENGE ET AL., PRESENCE: EXPLORING PROFOUND CHANGE IN PEOPLE, ORGANIZATIONS, AND SOCIETY 3–5 (2005) (discussing "learning organizations").

[13] The developer of general systems theory and biologist Ludwig von Bertalanffy drew a parallel between human systems and organic systems in that they are both open and "exchange materials, energies, or information with the environment." MICHAEL P. NICHOLS, FAMILY THERAPY: CONCEPTS AND METHODS 129–30 (De Capo Press Paperback Edition 1984). With continued inputs and outputs, to and from the environment, open systems maintained themselves by continual flow and change. *Id*. He changed the definition of humanity from a grouping of individuals to individual systems organized on various levels, from the family systems to civilization as a whole. *Id*. at 131. He emphasized that living systems, and by analogy social systems, are organized wholes, "not just the sums of their separate parts." *Id*. at 129. His true contribution to all fields of study was that concepts of wholeness and systems thinking could be applied to many fields of study, that living open systems emerge in many forms including biological, social and ecological systems, and that general principles of systems exist despite the nature and makeup of the system under study. CAPRA, *supra* note 12, at 49. His multi-disciplinary approach has proved to be relevant today as his unifying principles have proven to be the basis for modern principles in family therapy and management systems. *Id*. at 49–50.

best explain how students can grow and develop by interacting with their environment while remaining autonomous and differentiated from others. I will also discuss in Part II how the development of a clinical systems theory is consistent with principles of experiential and reflective learning.[14] This comparison of two learning theories provides the theoretical framework for the remainder of the article, emphasizing the importance of how students can grow in a learning system by experiencing complexity, interaction, and environmental challenges. I also refer in Part II to the changing role of a lawyer from traditional legal counselor and advocate to a coordinator of networked resources, solving non-legal problems.

In Part III, I describe a collaborative learning system model (a hybrid clinic design) and explain a pedagogical philosophy concerning clinic location, supervision structure and student development. I contend that a learning system model shows promise when located outside of a law school and that a joint supervision structure between an academic clinical faculty member and a non-academic field supervisor is successful. The concept of the authentic practice event[15] is also articulated, providing an example of how a law student can develop professionally when confronted with a complex interactive professional experience.

The final three parts of this article are dedicated to describing environmental teaching methods that promote a clinical systems' learning environment and the theoretical principles that explain the effectiveness of these techniques. The discussions of these environmental and systemic teaching methods are organized into three major categories: teaching students how to learn from others (the people they work for and with) in Part IV, teaching students how to learn from clients in Part V, and teaching students how to learn by interacting mentally and emotionally with themselves in Part VI.

Underlying this article is a simple practical message; to promote effective change in a networked world dependent on professional relationships and global cooperation, the legal profession can empower its newest members with the tools that will help them learn from, lead, and inspire others. The clinic environment (both externship and in-house) is the place where students develop these skills. To achieve this goal the clinic designer, field supervisor or clinical faculty member can structurally alter the work and learning environment for the student because the typical

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[14] *See* SENGE ET AL., *supra* note 12, at 12–13.

[15] A complex practice event is a high-pressure student practice scenario that integrates a number of authentic interactions between students and different individuals. This occurs when students interact with (and learn from) their clients, themselves and others in one integrated event that pushes them mentally, emotionally, and professionally. For students enrolled in the Washington University School of Law Criminal Justice Clinic this occurs when they "run an Associate Court docket". *See Criminal Justice Clinic*, WASH. UNIV. SCH. OF LAW, http://law.wustl.edu/crimjustice/index.aspx (Tips on Experiences, Time, and Expectations) (last visited Sept 29, 2012).

legal work environment is not solely equipped to provide effective change.[16] With the theoretical help of systems theory,[17] the designer, field supervisor, academic, and practitioner can enhance the workplace and/or clinic setting to allow for an effective learning environment by creating a legal learning system based on experiential growth.

II. INTERACTION AND REFLECTION: A SYSTEMS THEORY LEARNING MODEL

A. *Clinical Systems Theory*

A legal clinic is a system made up of multiple relationships and individual interactions.[18] The experiential learning that takes place in a clinic setting is based on these relationships and interactions. The first step in achieving an experientially rich clinic is to design a system that is

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[16] It is important to note that an ecological clinical education model based on contextualism and cognitive learning theory is different from the systems model advanced in this article, though with some similarities. The main difference is that proponents of ecological legal learning assert that "both law students and lawyers believe they learn and continue to learn by working in law offices. In fact, earlier studies suggest that lawyers attribute *much* more of their skills education to work experience than to law school in general and more to summer and part-time work than to law school clinical and simulation courses." Daniel J. Givelber et al., *Learning Through Work: An Empirical Study of Legal Internship*, 45 J. LEGAL EDUC. 1, 47 (1995). The systems perspective asserted in this article places a greater emphasis on a student's ability to meet future unknown challenges with skills developed and defined in the clinic, teaching students how to draw upon and utilize environmental resources as a source for learning. The proposed systems model places a greater emphasis on human interactions as a source of learning but is consistent with the cognitive learning principle which states that "[t]he central impact of this discussion of contextualism for a theory of ecological learning is that the law student will learn about lawyering primarily by immersion in the community of legal practitioners participating in the flow of their meaningful and functional events which the student will gradually integrate in to more and more coherent and comprehensive happenings." Brook K. Baker, *Beyond MacCrate: The Role of Context, Experience, Theory, and Reflection in Ecological Learning*, 36 ARIZ. L. REV. 287, 317 (1994). The problem raised is that individual law offices, externship sites and in-house law school clinics can fail equally in properly preparing students on how to develop future undefined skills if they are not adequately interactive and structurally altered to help students develop a personal strategy for future development. *See generally* Robert J. Condlin, *Learning from Colleagues: A Case Study in the Relationship Between "Academic" and "Ecological" Clinical Legal Education*, 3 CLINICAL L. REV. 337, 338–39 (1997); Julian Webb, *The "Ambitious Modesty" of Harry Arthurs' Humane Professionalism*, 44 OSGOODE HALL L.J. 119, 152 n.122 (2006) (discussing Donald Schön's "reflective practice model").

[17] To explore how systems theory and contemporary systems thinking can help in the development of a modern legal clinic, I will discuss how systems concepts are used in other professions. The legal clinic is a unique social organization (or system) with similarities to other simple and complex systems, analyzed and interpreted by scholars in different disciplines.

[18] The promise of a systems approach to clinical design is in how clinic supervisors can construct a system that operates much like a family developmental model. The contribution of structural family therapists to systems theory is in their mental approach towards how individuals relate to the world around them. Family systems theorists start with the premise that the person does not act upon their environment, but rather interact with everything and every person that surrounds them. SALVADOR MINUCHIN, FAMILIES & FAMILY THERAPY 5 (1974). Individuals neither control nor are controlled by their environment. Rather, persons are viewed as being inclusive of their world, collaborating and cooperating with their surroundings. RAPHAEL J. BECVAR & DOROTHY STROH BECVAR, SYSTEMS THEORY AND FAMILY THERAPY 54–55 (1982).

dominated by valuable, diverse interactions between the student and other members of the clinic system. Each relationship formed by a student within the system provides an educationally rich environment for clinical learning.[19] In forming professional relationships, the student is provided with multiple experiences from the other members of the system;[20] for instance, legal clinics provide students with the opportunity to develop relationships with judges, clerks, opposing counsel, support staff, investigators, social workers, supervising attorneys, fellow students and most importantly, clients and their support systems.[21] When law students form professional relationships, they develop patterns of interaction, providing effective training on how to develop future professional relationships.[22] The boundaries and hierarchy of the clinical system define the educational challenge each student faces.[23] When clinic students are introduced to a new social system they adapt to the system by learning the hierarchy and the common goals of the system.[24]

If students are able to learn from the system to maximize both institutional and individual practice goals, then they have achieved equilibrium with the clinical environment.[25] When they achieve equilibrium with the new social learning system of the clinic, students are better prepared to learn and grow in future work environments through

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[19] The structural family therapist contribution to clinic design comes from her approach to individual development within the family system. The social system surrounding individuals is what shapes how they assimilate information, attitudes and perceptions. "It is a natural social group, which governs its members' responses to inputs from within and without. Its organization and structure screen and qualify family members' experience." MINUCHIN, *supra* note 18, at 7.

[20] *See Criminal Justice Clinic*, WASH. UNIV. SCH. OF LAW, *supra* note 15 (Tips on Experiences, Time, and Expectations) ("As a legal intern, you have been granted a limited license to practice law, under the supervision of practicing attorneys and your faculty member, so comport yourself professionally at all times while doing docket and in interactions with clients, court personnel, prosecutors, judges, and others.").

[21] *Id.*

[22] Family therapists view the individual as influenced by both physical and social spheres with the social sphere influencing a person by way of "learned patterns." Learned patterns develop over the period of many years and are influenced by both the hierarchy of the family system and repeated explicit and implicit negotiations between family members. MINUCHIN, *supra* note 18, at 51–52; AUGUSTUS Y. NAPIER WITH CARL A. WHITAKER, THE FAMILY CRUCIBLE 50 (Harper & Row 1978). These patterns regulate the behavior of the family member by way of learned interactions even when the original context of the interaction is forgotten. *Id.* These patterns are stored in each individual and become part of how the individual approaches future interactions. *Id.*

[23] NAPIER WITH WHITAKER, *supra* note 22, at 49–50.

[24] The open social system model of the family demonstrates, by analogy, how the clinic learning system can promote the interactive development of its participants. *See* MINUCHIN, *supra* note 18, at 255 ("The individual, who is himself a subsystem of the family, faces different tasks and acquires different interpersonal skills in the different subsystems."). An effective legal clinic is an open learning system that is self-reflective and open to change. The clinic is composed of professional subsystem relationships with some interactions made outside of the clinic. The student herself is a subsystem that "faces different tasks and acquires different interpersonal skills in the different subsystems." *Id.*

[25] *See* THE ESSENTIAL PIAGET: AN INTERPRETIVE REFERENCE AND GUIDE 848–49 (Howard E. Gruber & J. Jacques Vonèche eds. 1977) [hereinafter PIAGET].

experiences of successful interactions developed in the clinic.[26] Similarly to experiential learning, systems learning teaches students how to adapt to future systems through allowing them to grow from their current clinic environment.

A student who enters the clinic social learning system is required to enter into a multitude of subsystem relationships: student-attorney, student-support staff, student-investigator, student-student, student-court clerk, student-judge and student-client. The learning occurs when the student utilizes interpersonal skills to achieve a desired outcome, while maintaining a differentiated professional identity.[27] The student learns new skills by developing transactional patterns with each new professional relationship. Repeated interactions with different people throughout the clinic hierarchy allow for the development of different transactional patterns to enhance a diverse set of new professional skills.[28]

When students start interacting with their new clinical environment, they are forced to move away from their current state of equilibrium, a state of minimal interactive learning, toward a state that is far from equilibrium.[29] New and different inputs and inflows of interaction throw

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[26] *See* ROSE A. MUELLER-HANSON ET AL., , DEVELOPING ADAPTIVE PROFICIENCY IN SPECIAL FORCES OFFICERS. *U.S. Army Research Institute, Research Report 1844* (DTIC No. ADA432443),(2005), *available at* http://www.au.af.mil/au/awc/awcgate/army/rr1844.pdf. Military researchers have concluded, "[t]he best way to train adaptive performance is still in question and has only recently begun to be addressed by researchers." *Id.* at 9. But after a review of the existing research, they determined that training a leader how to adapt to future circumstances must incorporate exposure to situations that require adaptability. This type of training allows the leader to develop a "varied catalog of experiences" that allows for a comparison to their current situation (internal quotations omitted). *Id.* The researchers also concluded that feedback was an essential component of teaching how to adapt by experiencing adaptation. *Id.* Of special significance to the systems approach discussed in this article are interpersonal skills and personality traits were determined to be important "characteristics that are related to adaptability". *Id.* at 4. This model of teaching adaptability is consistent with how the structural family therapist views the teaching of skills to members of the family system. As children confront a world outside of the family they must use existing skills to interact and adapt. *See* MINUCHIN, *supra* note 18, at 52–54.

[27] The family system carries out this unique task by way of subsystem relationships. "Each individual belongs to different subsystems, in which he has different levels of power and where he learns differentiated skills." MINUCHIN, *supra* note 18, at 52–53.

[28] *See id.*; DONALD A. SCHÖN, THE REFLECTIVE PRACTITIONER: HOW PROFESSIONALS THINK IN ACTION 60–61(1983). *See also* SUSAN L. BROOKS & ROBERT G. MADDEN, *Relationship-Centered Lawyering: The Emerging 'Science' of Professionalism, in* RELATIONSHIP-CENTERED LAYERING: SOCIAL SCIENCE THEORY FOR TRANSFORMING LEGAL PRACTICE, *supra* note 6, at 11–12 (discussing how the study of patterns of professional interactions and professional reframing are emerging in both medical and legal education, based on concepts advanced by complexity theorists who study in the field of management). *See generally* Anthony L. Suchman, *supra* note 8, at S40.

[29] The concept of equilibrium is similar for both chemist and Nobel Laureate Ilya Prigogine and developmental psychologist Jean Piaget. Prigogine's concept of a living system experiencing a state of equilibrium is equivalent to that system being in a state of death with the continuous metabolic flow and change coming to an end. CAPRA, *supra* note 12, at 181. Piaget refers to equilibrium as a state in which a person can both assimilate new inflows into current cognitive structures and allow for the same structures to accommodate the new information. When both accommodation and assimilation are achieved, the learner has achieved equilibrium. PIAGET, *supra* note 25, at 848–49.; CHARLES HAMPDEN-TURNER, MAPS OF THE MIND: CHARTS AND CONCEPTS OF THE MIND AND IT'S LABYRINTHS

them into a state of disorder and chaos.[30] The problems encountered in representing clients and in general clinic involvement require students to interact in unique ways with new and different people.[31] As students interact with others, new transactional patterns develop which force the students away from their old state of equilibrium toward a new state of higher complexity.

A student who achieves this new state of mental and emotional complexity is able to achieve a new and higher level of equilibrium with the environment of the clinic. The student remains at that state of order until the clinic environment triggers a natural tendency to problem solve and interact, forcing her to move far from equilibrium again toward a new state of complexity.[32] If the clinic environment is properly designed to be sufficiently interactive, this cycle of student learning will continue to advance the student toward higher levels of individual complexity.[33]

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136 (1981); For the purpose of the proposed clinic model, equilibrium will be defined as a state of no new interactive learning. When the chaos and disequilibrium of developing new transactional patterns with subsystem members have ceased and the individual is operating in communion with her existing environment (matching individual goals with the goals of the system) she is operating at a new level of complexity. At that point, she is at a level of no educational learning until the clinic environment moves her back into a new state of chaos defined by non-repetitive and unique environmental challenges requiring interaction with the clinic system, *See* ILYA PRIGOGINE & ISABELLE STENGERS, ORDER OUT OF CHAOS: MAN'S NEW DIALOGUE WITH NATURE, 13, 127–29, 143, 312–13 (1984).

[30] *See generally* JOHN BRIGGS & F. DAVID PEAT, LOOKING GLASS UNIVERSE: THE EMERGING SCIENCE OF WHOLENESS 168 (1986) ("Several writers have compared this evolution of complexity to how new social orders evolve out of political crisis, new psychological strengths out of suffering and conflict, new artistic forms out of the apparent chaos of an artist's creative process.").

[31] A theory of systems and complexity reveals that one cause cannot effect the complete development of a professional; rather a countless series of (nonlinear) recursive causalities will develop emergent patterns of system (professional) behavior. The target of reflective teaching becomes the emerging patterns of professional behavior caused by student interactions. This theory encourages the clinician to reflect beyond a cause and effect assessment of student clinical performance and developing legal skills. *Cf*. Francesc Borrell-Carrió et al., *The Biopsychosocial Model 25 Years Later: Principles, Practice and Scientific Inquiry*, 2 ANNALS OF FAMILY MEDICINE 576, 577–78 (2004).

[32] *See generally* Ross, *supra* note 3. Professor Meredith Ross demonstrates this tendency to interact and problem solve when she highlights the work of University of Wisconsin Law professor Frank Remington, who started a correctional internship program in the summer of 1964. Over the next few years the program evolved from observational to interactive. She recounts how students who were placed in prison facilities for observation and analysis only were engaged by both social workers and inmates. Members of the prison community (inmates and staff) began interacting with students, asking for legal assistance. Soon after, Remington formalized the interactive experience by moving towards a legal assistance program. *Id*. at 789, 793. This new type of individual complexity (caused by the interaction) is also demonstrated when she recounts how past students who became legislators, community leaders, prosecutors, and practicing attorneys became deeply influenced by their experience, understanding both the human and legal aspects of the system. One prosecutor explained how he draws upon his experience frequently, sometimes subconsciously. *Id*. at 798.

[33] See *Criminal Justice Clinic*, WASH. UNIV. SCH. OF LAW, *supra* note 15, for an example of an interactive event that promotes this cycle of student development. *See also infra* Brayer, pp. 158–59. On the first day of a clinic term, a student sits at a workspace, with a pencil, a pad, and no interactive learning, except with their pre-clinic self. They are at a state of equilibrium with their pre-clinic system, experiencing a stationary state. Soon a supervisor presents them with a case. For example: "Find a way to obtain a bond or bail reduction for this client." That student is then set on a path toward a state that is far from equilibrium with their pre-clinic self, toward a new complexity. Each new

This model of development occurs in a "learning organization," a work environment, externship or in-house clinic that is sufficiently interactive but simultaneously safe.[34] The environment is filled with a diverse group of individuals that provide realistic and wide-ranging challenges to the student.   The environment is also a "micro-world" of learning that promotes expression and experimentation in a setting shaped by a safe psychological tension.[35] A clinical setting based on connectedness and interaction provides a setting for the initiation of clinical learning.

Like learning how to gain knowledge from one's experiences,[36] clinical systems theory utilizes reflection, feedback and self-evaluation to teach students how to learn from any professional environment and achieve a new equilibrium with any new system. The goal of this clinical design model is to develop a future advocate who can effectively adapt to and collaborate with new work communities, while maintaining individual creativity and autonomy that resists conformity and promotes institutional change.[37] Students learn how to develop and change by interacting with their environment while learning the importance of maintaining a personal style and philosophy that brings value and power to their interactions with

interaction with a supervisor, court clerk, corrections officer, client, client's mother, clinic faculty, prosecuting attorney, bailiff, judge, and themselves moves the student into a state of greater disorder and entropy. Each new interaction with their new professional system brings greater levels of energy, building to a new state of professional and individual complexity. At that moment of new complexity, they settle into a new temporary state of equilibrium with the clinic, awaiting the next task that will send them into a new cycle of interactive learning. *Id*.

[34] Management theorist Peter Senge outlined his concept of a "learning organization" in his book *The Fifth Discipline*. PETER M. SENGE, THE FIFTH DISCIPLINE: THE ART AND PRACTICE OF THE LEARNING ORGANIZATION (1990). Senge explains that corporations and organizations will succeed only if individuals at every level are allowed and encouraged to learn and understand how they are connected to the rest of the world. Individuals are natural learners but both organizations and individuals can learn how their own actions, as opposed to the actions of others, can create problems or how individuals can create their own reality. "Team learning develops the skills of groups of people to look for the larger picture that lies beyond individual perspectives." *Id*. at 12.

[35] Senge's use of "microworlds" as a safe place for development and experimentation is identical to how many view the modern legal clinic. *See* SENGE, *supra* note 34, at 314, 325–26.;

[36] Clinical learning takes place when feedback and self-evaluation (reflective thinking) techniques are used to strengthen the relationship and the quality of transactions between the subsystem members, promoting the student's ability to benefit from her future systems and subsystem relationships. Senge questions the advantages of learning from experience, arguing that "[l]earning based on the past suffices when the past is a good guide to the future. But it leaves us blind to profound shifts when whole new forces shaping change arise." SENGE ET AL., *supra* note 12, at 86. His argument lays the groundwork for an environmental learning model that teaches students how to draw upon their environment as a resource for learning, anticipating emerging realities not based on past experience. *See id*. at 12–13. *See also* SENGE, *supra* note 34, at 23–24 .

[37] Theoretical biologist Herberto Maturana and Francisco Varela have advanced the theory that all living systems engage in the process of cognition to self-generate and survive. Cognition (traditionally the process of knowing) occurs when a living system interacts with an environment. CAPRA, *supra* note 12, at 267. "It couples to its environment structurally in other words, through recurrent interactions, each of which triggers structural change in the system." *Id*. (emphasis omitted). Cognition is accomplished when the living system (not an environment) dictates what interaction will cause what kind of structural change. "The living system is autonomous, however. The environment only triggers the structural changes; it does not specify or direct them." *Id*.

others.[38]

B. *Reflective Learning in a Systems Environment*

Systems theory provides a theoretical foundation for the creation of a professional learning environment that enhances the practice of reflective learning, teaching and thinking.[39] The clinician needs an authentic, diverse, and substantive teaching environment that maximizes experience before methods of reflective learning can be utilized. Systems theory is the theoretical tool that clinic supervisors, faculty and designers can use to create such an atmosphere.

The basic principle of reflective learning is that intelligent individuals continually attempt to restructure their environment to maximize individual purposes and goals: "the maintenance and enhancement of one's self."[40] The individual accomplishes this task by way of experiential experimentation, attempting various courses of action and adopting the one that proves the most effective.[41] A person's understanding grows when this form of experimentation is used to learn from experience.[42]

Educators using reflective methods teach this form of experiential learning by utilizing a problem-centered approach encompassing both the raising and solving of problems encountered in the clinic setting.[43] "The first of these situations may be called *pre*-reflective. It sets the problem to

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[38] In structuring an environmental learning model, it is helpful for the clinic designer to view the student in the same way Maturana views the interacting, perpetuating living system, as an autonomous person (system), who learns from repeated interactions between herself and her surrounding environment (system); as an individual who determines what environmental stimulus she will use to make personal structural change; as a student, who uses emotions to expand her range of interactions with the learning environment, increasing her cognitive domain. CAPRA, *supra* note 12, at 269. When a student interacts with her environment, her emotion improves the quality of the interaction, creating an increased complexity in her thinking. *See id*. If a student is feeling emotion, she is no longer just a passive observer; instead, she is interacting with a learning environment. *See id*.

[39] *See* DONALD SCHÖN, EDUCATING THE REFLECTIVE PRACTITIONER: TOWARD A NEW DESIGN FOR TEACHING AND LEARNING IN THE PROFESSIONS 36 (Jossey-Bass ed. 1987). (For Schön, the constructionist view describes how practitioners are "in transaction with their practice worlds," (systems theory) and remaking that same world by the use of "reflective conversation" (reflective learning).

[40] MORRIS L. BIGGE & MAURICE P. HUNT, PSYCHOLOGICAL FOUNDATIONS OF EDUCATION: AN INTRODUCTION TO HUMAN MOTIVATION DEVELOPMENT, AND LEARNING 438 (Harper & Brothers 1962) (1958).

[41] Donald Schön provides an excellent example. SCHÖN, *supra* note 39, at 24. ("A tennis teacher of my acquaintance writes, for example, that he always begins by trying to help his students get the feeling of 'hitting the ball right.' Once they recognize this feeling, like it, and learn to distinguish it from the various feelings associated with 'hitting the ball wrong,' they begin to be able to detect and correct their own errors.").

[42] BIGGE & HUNT, *supra* note 40, at 438.

[43] *Id*. at 466.

be solved; out of it grows the question that reflection has to answer."[44] But not all problems are created equally. Generally, reflective teaching methods have been unsuccessful when teachers have failed to introduce problems that invoke a psychological tension in the learner.[45] To achieve this tension, an adequate learning environment must be created that provides authentic, interactive, and diverse experiences that include a level of substantive depth. For the professional learner, these experiences as outlined by Donald Schön "emphasize intermediate zones of practice."[46] "If we focus on the kinds of reflection-in-action through which practitioners sometimes make new sense of uncertain, unique or conflicted situations of practice, then we will assume neither that existing professional knowledge fits every case nor that every problem has the right answer."[47]

The problems that present themselves in the clinic should derive from student experiences that expose the uncertain, unique, and conflicted situations of legal practice. Schön refers to teaching environments which promote a student's ability to operate outside of the normal existing professional areas of knowledge by becoming "proficient at a kind of reflection-in-action" as a "reflective practicum."[48] The question that arises is how clinic supervisors and designers can create a problem-centered environment that exposes the intermediate zones (the uncertain, unique, or conflicted situations) of legal practice.[49]

Schön provides guidance on how to maximize quality experiences in a reflective practicum by referring to a form of environmental learning that calls for the exposure and immersion of the student in the practicum world.[50] This type of "background learning" occurs when students interact with each other and become integrated into the complete practicum environment.[51] "Learning by exposure and immersion, background learning, often proceeds without conscious awareness, although a student may become aware of it later on, as he moves into a different setting."[52]

The problem with Schön's description of background learning is that it lacks any attempt at theoretical organization or a greater understanding of how this type of learning contributes to the development of the student. He refers to this form of learning as "diffuse" while simultaneously

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[44] JOHN DEWEY, HOW WE THINK: A RESTATEMENT OF THE RELATION OF REFLECTIVE THINKING TO THE EDUCATIVE PROCESS 106–07 (1933).

[45] *See* BIGGE & HUNT, *supra* note 40, at 466.

[46] SCHÖN, *supra* note 39, at 40.

[47] *Id*. at 39.

[48] *Id*. at 40.

[49] *Id*. at 39–40.

[50] *Id*. at 38.

[51] *Id*.

[52] SCHÖN, *supra* note 39, at 38.

characterizing its existence as an important part of the practicum process.[53] Schön also argues that "background learning absorbed in a practicum may become evident only when a student enters a new context where she sees what she has learned as she detects how different she is from around her."[54] For Schön, this form of learning is important, relevant, but difficult to discern in its contribution to the individual's growth and development.[55]

A clinical systems theory attempts to move the idea of background learning to the front and center of the reflective practicum.[56] Because "some of the most important kinds of learning are of a background variety,"[57] it is the task of the legal clinic supervisor and clinical faculty to gain a better understanding of how learning occurs through immersion and interaction. Since the culture of the legal profession is based on professional interactions and relationships, clinics are unique in that law student participants have a need for reflective practice that relates to the systemic life of the practitioner or, in Schön's words, "what happens when people with similar and different ways of framing reality come into collision."[58]

Schön's words are important to the legal clinician; reflective professional education should include an understanding of how individuals interact with their professional environment.[59] Additionally, systems theory encourages the clinic designer to develop programs and methodologies that promote the framing of practice issues around the developing professional interactive life of the student. The creative collision between the student and the professional environment that surrounds her becomes a prime target area for reflective practice and teaching.

The learning system model to be discussed in Part III organizes the framing of problems into three interactive categories. Under this model, students experience unique, conflicted, and uncertain practice challenges originating from the people they work with and for, from their clients (including the client's family system and support system), and from

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[53] *Id.* at 38, 298–99.

[54] *Id.* at 168.

[55] *Compare id.* with *id.* at 38.

[56] Creating a Clinical Systems Theory becomes the central undertaking of this article, expanding on Schön's concept of "background learning" by using a theory of systems and complexity to explain how students can develop, learn, and grow by interacting with different systems as part of their clinic experience. Schön begs the question that this article attempts to answer. How does Schön's practicum student learn and become different without "conscious awareness", and how can that same student become immediately aware of her learning and individual change? See *id.* at 38, 168.

[57] *Id.* at 298.

[58] SCHÖN, *supra* note 39, at 322.

[59] *Cf.* Suchman, *supra* note 8, at S40–S44.

themselves.[60] These three categories become the primary focus with which students frame, and then reflectively reframe, the unique problems that arise in legal practice. Since reframing allows for the solution to be found within the problem,[61] a clinical systems theory categorizes the resources for problem solving and learning into three main areas. Additionally, these three categories of resources provide the foundation for designing clinic methodology that enhances the student's ability to learn from future environments by way of reflective practice.

Students achieve this form of environmental learning or development by creating interactive/transactional patterns with the individuals who make up the clinic environment.[62] They are additionally encouraged to reflect on their individual transactions, testing different interactive hypotheses and creating new modes of influencing their environment.[63] The combination of the interactive environment and individual reflection achieves the ultimate educational goal of a clinical system learning model with the purpose of helping students grow, develop, and change while maintaining a differentiated self, gaining a momentary equilibrium within the clinical system. When students utilize techniques of reflective thinking and self-critique to understand how they can or have achieved (or, conversely, failed to achieve) equilibrium with their practice environment, they are better prepared to adapt to and influence future systems.[64] A law clinic designed to teach students how to become more proficient at "playing network roles" and more aware of the dynamic whole is a "learning system."[65] With the help of systems theory, clinical faculty can

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[60] Attorneys work with judges when they litigate a case. They work with opposing counsel when they conduct a cross examination at a motion hearing. "Working with others" does not necessarily imply cooperation, but interactive involvement. At times interacting with a client also involves interacting with the client's family and social and professional support network. When a professional works with the individuals who make-up a client's family system or support system, she will utilize techniques that can be considered both working with others and working with clients. Considering a systems approach, working with or learning from the client, arguably, is inseparable from working with or learning from that same client's family or support system. *See* BINDER ET AL., *supra* note 6, at 2–13. *See also infra* text accompanying note 205 (discussing collaborative lawyering and relationship-centered lawyering).

[61] *See* WATZLAWICK ET AL., *supra* note 4, at 95 (Since the facts that give rise to a problem remain constant, the solution to a perceived problem can be found in reframing how those same facts are viewed and then labeled. A situation is being called a problem when in fact it may be a mislabeled opportunity. Calling a situation a problem may be the problem.).

[62] *See* SCHÖN, *supra* note 28, at 36. *See generally* MINUCHIN, *supra* note 18, at 53(discussing how the organization of a family provides training for its members).

[63] *See* SCHÖN, *supra* note 39, at 36, 39–40.

[64] *See* MUELLER-HANSON ET AL., *supra* note 26, at 9.

[65] Donald Schön wrote about the need for institutions to become "learning systems." DONALD A. SCHÖN, BEYOND THE STABLE STATE 200 (1971). By observing both the peace and civil rights movements of the 1960's Schön articulates the importance for organizations to become less centralized, allowing interpersonal networks based on relationships to become the tool for solving a "whole problem." *Id*. He discusses individuals who are effective in playing network roles and how they are able to effect change by operating within several subsystems and maintaining many

create a learning system that teaches students how to meet challenges by collaborating, leading and inspiring others.

As the world becomes more integrated and existing institutions are forced to learn and change in the face of developing global challenges, professional training can teach students how to cultivate systemic resources to battle problems that defy traditional solutions. Training students as skilled facilitators, practiced at new environmental immersion and inter-system collaboration, becomes the legal clinic's truest fulfillment of its social justice role.[66]

Both the MacCrate Report and the Carnegie Foundation's most recent report on legal education have emphasized the changing role of the lawyer by placing importance on skills and values not traditionally associated with the practice of law or legal education.[67] The ever-expanding skill set of the lawyer is evolving to include a proficiency in solving non-legal problems and coordinating resources not associated with legal expertise.[68] As students move beyond the clinic and law school, they will meet challenges requiring the marshaling of human resources from diverse disciplines, cultures, and perspectives. Teaching law students how to face unpredictable challenges, by trusting and learning from a network of individuals, requires non-traditional approaches to both classroom and clinical legal education. [69]

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organizational identities. *Id*. Peter Senge arrived at a similar conclusion about centralized and authoritative organizations when he promoted the concept of a "learning organization." *See* SENGE, *supra* note 34, at 3-5. In a later work, Senge references the need for organizations to concentrate less on employees learning the business and more on employees understanding relationships and how information is transformed into value, allowing individuals and organizations to sense an emerging reality by becoming "aware of the dynamic whole". *See* SENGE ET AL., *supra* note 12, at 12, 210.

[66] In the research of Professor Peggy Maisel, we see that well-educated and well-intentioned legal professionals and educators, though determined to create positive change, failed on many occasions because of their inability to effectively learn from their environment. Peggy Maisel, *The Role of U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration*, 14 CLINICAL L. REV. 465, 504 (2008).

[67] *See* RANDALL KISER, BEYOND RIGHT AND WRONG: THE POWER OF EFFECTIVE DECISION MAKING FOR ATTORNEYS AND CLIENTS, 157 - 160 (2010); ABA TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT-AN EDUCATIONAL CONTINUUM 121 - 25 (1992) [hereinafter MacCrate Report]; WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 188 (2007) (a two-year study on legal education from the Carnegie Foundation for the Advancement of Teaching) [hereinafter Carnegie Foundation Report].

[68] *See* Carnegie Foundation Report, *supra* note 67.

[69] Management complexity theorist Ralph Stacey describes organizational change as being emergent from many local interactions occurring between individuals who make up societies and companies. RALPH D. STACEY, COMPLEXITY AND ORGANIZATIONAL REALITY: UNCERTAINTY AND THE NEED TO RETHINK MANAGEMENT AFTER THE COLLAPSE OF INVESTMENT CAPITALISM 65 (2010). Because of the nonlinear nature of human interaction, unexpected interactive patterns are developed, resulting in the unpredictability of evolving complex systems. Because of this unpredictability, leaders are unable to utilize standard solutions that emphasize sameness to promote evolution and change; rather, leaders should help the group operate into the unknown. *Id*. at 217. Organizational change occurs when local interactions are diverse and interacting individuals are different. *Id*. at 65. For lawyers to be agents of change, they will require a better understanding of the dynamics and diversity

III. THE LEARNING SYSTEM MODEL

A. The Creative Collaboration, a Hybrid Model

One example of a learning system model that promotes experiential learning within the context of clinical systems theory is a hybrid design between an externship (field placement program) and an in-house clinic.[70] Within the hybrid model the duties of a law school faculty member and a non-academic coordinator are distinct, separating the task of teacher from that of the field placement's manager of students. Contemporary clinic design theory promotes the principle that the "field instructor is neither the ideal person nor in the ideal position to sponsor the fullest range of learning."[71] The academic is shouldered with the task of providing the theoretical knowledge necessary for the student to evaluate her experiences.

Since it is the primary job of the law school faculty to effectively conduct experiential learning, it has become increasingly difficult for the same academic to provide all of the experiences that promote such learning. This hybrid model places the task of providing and promoting student experiences with an externship placement based outside the law school setting.[72] This article discusses the specific clinic model because its structure provides an example of how interactive and reflective learning can effectively coexist in one setting. While other clinic models can provide equivalent opportunities for students to learn from their interactions, the hybrid model discussed in this section places equal importance on expanding interaction and reflecting on experience.

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of human interaction. *See id.* It is important to note that Stacey disagrees with how systems theory is applied to explain organizational behavior, but it is evident that exposing students to a learning system of diverse and plentiful interactions is a methodology that draws attention to "the diversity of human behavior," teaching students how to trust and effectively utilize their environment. *Id.*

[70] An example of a hybrid clinical design is the clinical collaboration between the Washington University in St. Louis School of Law Criminal Justice Clinic and the Missouri State Public Defender System (MSPD) Student Internship Program. Direct supervision of the students is shared between the director and faculty of the criminal justice clinic (the academic) and the MSPD district managers and intern coordinators (the non-academic supervisors of students). *See Criminal Justice Clinic,* WASH. UNIV. SCH. OF LAW, *supra* note 15.

[71] Smith, *supra* note 10, at 544 ("Rather, the faculty member, with expertise as an educator and objective distance from the practice setting, should help the student critically evaluate his experiences.").

[72] The American Bar Association refers to law school externships as a "field placement." Both terms will be used in this article to describe the same clinic model. AM. BAR ASS'N, SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, STANDARDS FOR APPROVAL OF LAW SCHOOLS 24 - 26 (2010 - 2011). Interpretation 305-2 reads in part, "The nature of field placement programs presents special opportunities and unique challenges for the maintenance of educational quality." *Id.*

B. Clinic Placement and the Learning System Collaboration

By removing the clinic from the law school and placing it within a working law office, students are provided with greater opportunities to interact with a diverse array of individuals. The students' learning system expands to include new members, requiring them to engage in relationship-building as well as conflict resolution.[73] Clinic students are forced to confront not only new ideas but also people who come from different socio-economic settings. The in-house clinic can expose students to a diverse set of clients, but it is the hybrid setting (essentially an in-house clinic within a practicing law office) that forces students to confront the harsh realities of an authentic practice environment.[74] This collaboration requires students to adapt to a system that is not solely designed or operated for their benefit.[75] Students confront the natural conflict that occurs when new attorneys are integrated into an unfamiliar system. For example, the introduction of a new clinic student into a public defender's office or a courthouse practice environment can be turbulent for the new individual experiencing the brunt of the system's adjustments.[76]

It is the adjustment of the new student into a different system of diverse members that gives rise to the greatest learning opportunities and teaching moments. For example, a clinic that is a component of a courthouse system introduces students to a learning system composed of judges, clerks, corrections officers, support staff, investigators, social workers and attorneys of all philosophical leanings and points of view. It is rarely easy for a student to integrate into such a diverse system. However, it is this integration that forces the student to adapt and learn techniques that will help her become a member of future differentiated and diverse systems.

C. The Academic and the Manager, Supervision and Collaboration

In a learning system, the tasks of supervisor and academic can be distinct and separate. The role of the supervisor of students is to be an

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[73] *See* Smith, *supra* note 10, at 535–36. *See also* Norman Fell, *Development of a Criminal Law Clinic: A Blended Approach*, 44 CLEV. ST. L. REV. 275, 287–88 (1996); Anahid Gharakhanian, *ABA Standard 305's "Guided Reflections": A Perfect Fit for Guided Fieldwork,* 14 CLINICAL L. REV. 61, 66, 74 (2007).

[74] *See* Smith, *supra* note 10, at 535 - 36 (Professor Smith outlines various educational advantages when externship programs are established in place of an in-house clinic). In-house clinics have routinely been set in or near a law school and both academic and supervision components are provided by both law school faculty and hired law school staff attorneys. *See id.* at 534.

[75] *See* Fell, *supra* note 73, at 287.

[76] *See* SCHÖN, *supra* note 39, at 311 (discussing the emotional challenges students face when they become integrated into a practicum).

employer and administrator, coordinating the needs of the institution while maximizing the practice and non-practice experiences of the student.[77]   It is the role of the academic to utilize clinical teaching methods to guide the student within the system and teach the student to use self-reflection to learn from her environment. The academic is free from case management duties and daily practice requirements so that they can assist students with their clients and cases while observing the students' interactions within the system.[78] The main task of a non-academic coordinator is to maximize the quality and quantity of learning experiences.[79] The experiences provided through the externship are filtered through the techniques of the faculty member whose teaching task is distinct and separate from that of the supervisor.

The academic turns experiences into teaching opportunities by way of promoting self-analysis and reflection, institutional critique and feedback, and student centered planning.[80] The academic also assumes the role of an advisor and counselor, guiding the student through the path of experiences provided by the field supervisor.[81]   In short, the field supervisor or coordinator manages while the law school academic educates; the two roles are equal but distinct, forming a unique synergistic teaching partnership with defined functions.

A hybrid clinical design model is only successful when both parties in the collaboration find balance between supervisory boundaries and institutional cooperation. The need for such a balance is evident in the writings of Schön and educational theorist Carl Rogers.[82] Rogers speaks of

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[77] See MacCrate Report, *supra* note 67 at 127, 140, for an example of non-practice experiences requiring traditional non-law related skills (Some specific examples from the clinic environment include: approaching a full time employee of the clinic office when the copy machine has jammed, seeking assistance from a court clerk when attempting to locate and inspect a public record, interacting with a corrections or juvenile officer when attempting to visit a detained clinic client and requesting assistance from another law student or undergraduate. For the seasoned professional, the non-practice experience may be managing a law firm or institution.).

[78] Smith, *supra* note 10, at 544 ("Rather, the faculty member, with expertise as an educator and objective distance from the practice setting, should help the student critically evaluate his experiences.").

[79] *See* Fell, *supra* note 73, at 288. (Fell refers to this individual as the "field supervisor.").

[80] *See id*. at 287 (discussing how a field placement allows the student to gain greater control over her "learning agenda"). A placement outside of the law school allows both the student and faculty to experiment with this shifting agenda. *See generally* Gharakhanian, *supra* note 73, at 65–73 (emphasizing the benefits of a student externship placement).

[81] *See* Fell, *supra* note 73, at 288. ("The duel supervisory components of practitioner and clinical educator can be one of the strongest benefits of the externship program.").

[82] Donald Schön is a 20th century thinker who advanced the idea of continuous professional learning by way of "reflection in action", or how professionals think through a problem as they practice their profession drawing from past experience and knowledge, and then reflect on their actions, learning how to meet future professional challenges. Carl Rogers is considered the creator of the student-centered-learning model in which the individual learner is placed at the center of the educational environment. *See* CARL R. ROGERS, ON BECOMING A PERSON: A THERAPIST'S VIEW OF PSYCHOTHERAPY 282 - 87 (1961).

the need for the teacher to be "congruent," being a real person both embracing her own attitudes and feelings and expressing them to her students. Schön voices a warning about the practicum world, cautioning educators to remain connected to academic teaching, maintaining a link between professional practice and academic professional knowledge.[83] Can one person achieve both educational goals? Under the collaboration model both learning theories are advanced by two separate educators with different but compatible teaching methods. The coordinator and his office are naturally congruent and the professor remains analytically and academically grounded. This collaboration is best described by Professor Linda Smith: "The faculty member can assist the student in understanding the field supervisor's own role definition within the legal system in a way no one else could."[84]

To achieve the full promise of a bifurcated supervision model, the academic needs complete access to the institution.[85] The clinical faculty member is a welcomed member within the office to ensure her complete immersion into the institutional environment. For the academic to become an advisor and a counselor to the students, and at times to members of the office, she must be able to observe the integration of each student into the learning system on a regular basis. In this teaching model, the professor observes the context of the student experience in order to properly implement clinical teaching methods.[86] The institution's job is to remove physical barriers to access by providing the clinical faculty member with a work and meeting space. Legal impediments, such as confidentiality and conflicts of interest, are also considered.[87] While the academic is immersed in the daily workings of the clinical setting, she remains differentiated from the institution, not fully integrated.

Complex student experiences provide a practical example of how students are able to learn and grow from operating at the convergence point of many systems. In the following example, an environment of controlled complexity is used as the tension point to promote interactive growth and student self-reflection. The supervisor provides the situational complexity

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[83] *Compare* ROGERS, *supra* note 82, at 282–87 ("This involves the teacher's being the person that he is, and being openly aware of the attitudes he holds. It means that he feels acceptant toward his own real feelings. Thus he becomes a real person in the relationship with his students."), *with* SCHÖN, *supra* note 46, at 312 (The "reflective practicum" remains connected to academic teaching by cultivating "activities that connect the knowing- and reflection-in-action of competent practitioners to the theories and techniques taught as professional knowledge in academic courses.").

[84] Smith, *supra* note 10, at 544.

[85] *Id*. at 544 - 46.

[86] See *infra* text accompanying note 210, for a discussion of Werner Heisenberg's uncertainty principle. Immersion of the academic into the externship environment or system will arguably change the dynamic of the externship work site.

[87] *See* Peter A. Joy & Robert R. Kuehn, *Conflict of Interest and Competency Issues in Law Clinic Practice*, 9 CLINICAL L. REV. 493–94, 522 (2002).

and the academic provides the reflective tools, promoting assessment, analysis, and professional development.

D. *Complexity, Student Development and the Learning System*

Using complexity as a teaching tool is accomplished when a high-pressure student practice scenario integrates a number of authentic interactions between students and different individuals. A complex practice event is when students learn from their clients, themselves, and others in one integrated experience that pushes them mentally, emotionally and professionally. Some clinical placements allow for students, at one time and in one place, to interact with members of their practice community like judges, clerks, prosecutors, private attorneys, opposing counsel, bailiffs, corrections officers, social workers, the general public, clients, a team of other students, supervisors, and an academic.[88] Placed at the center of a courtroom or practice setting, students coordinate and perform various client services for a number of clients on a docket day or law day.[89] They are required to provide quality individual representation for each client, despite the fact that they have a number of clients demanding their attention, along with court personnel and other professionals demanding their time, all while operating from a central position of authority.[90] A complex practice event is the ultimate interactive experience for students.

On a practical level, the event teaches the student how to multitask. The student becomes sufficiently focused, learning to prioritize the myriad tasks to be performed.[91] The complexity awakens students to the power of their personality, demonstrating that in times of insurmountable challenges they can trust their instincts and intellectual abilities. They soon understand that the systems that have engulfed them are not obstacles but rather resources that can help both them and their clients.[92] Students develop and change by interacting with a complex practice environment but maintaining a personal style and philosophy that brings value and power to their interactions with others. This realization teaches students how to adapt and learn from all future practice related challenges.

On a theoretical level, the effectiveness of a complex practice scenario as a teaching method can be analogized from various theoretical models in

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[88] *See Criminal Justice Clinic*, WASH. UNIV. SCH. OF LAW, *supra* note 15 (Tips on Experiences, Time, and Expectations).

[89] *Id.*

[90] *Id.*

[91] *Id.*

[92] *See* WATZLAWICK ET AL., *supra* note **Error! Bookmark not defined.**, at 95 ("What turns out to be changed as a result of reframing is the meaning attributed to the situation, and therefore its consequences . . . .").

different fields. Some of the relevant works indicate that living systems (in this case, the student) can be moved to a state of new complexity by increasing the flow and fluctuation of interactive energy into the individual system that is the student.[93] Systems that operate close to equilibrium, like a student experiencing minimal levels of interactive learning, experience a weak flow and change of chemical reactions and "evolve toward a stationary state in which the generation of entropy (or disorder) is as small as possible."[94] A system is no longer growing if it is in equilibrium. Conversely, living systems, like students in a clinic, operate far from equilibrium and, because of their increased complexity, require greater levels of energy flows with stronger "fluxes."[95] When the living system moves far from equilibrium, disorder increases and the system tends toward a greater level of complexity. Increased energy flows from a living system's environment (the system of the clinic) can result in increased fluctuations to a level that requires the system that is the student to reorganize, tending toward a higher level of complexity.[96]

A complex practice experience causes an increased level of energy exchange between the student system and her environment.[97] The student moves away from interactive equilibrium (a state of no environmental learning) toward a state of disorder or mental entropy. This disorder, caused by the mental, emotional and physical fluctuations of the student's extreme interactive experience, requires the participant to move toward a greater level of development and complexity. The student enters a more complex state of development that is "flowing yet stable;"[98] this present state can only be changed if the student is subjected to new and more intense fluctuations. At this point "a new phase of chaos occurs, and a new and 'higher,' more complex order evolves."[99] This continued evolution is how students learn and develop from interactive experiences.

Operating at the convergence of many systems allows students to develop a new mental complexity. They learn that creative change can emerge from the value they place in their professional relationships and in their ability to "sense something new and act instantaneously in accordance

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[93] *See* PRIGOGINE & STENGERS, *supra* note 29, at 128 - 29.

[94] CAPRA, *supra* note 12, at 181. At this point in the analysis we revisit the work of Ilya Prigogine and directly apply his theory of dissipative structures, to explain the educational effectiveness of the docket day teaching method and practice requirement. The theoretical development models of Jean Piaget are also effective in explaining the cycle of growth that occurs when students move from experiencing confusion and chaos to achieving complexity. *See* PIAGET, *supra* note 25, at 848–49.

[95] CAPRA, *supra* note 12, at 181.

[96] *Id*. at 181–82.

[97] *Id. Compare* BRIGGS & PEAT, *supra* note 30, at 168, with PIAGET, *supra* note 25, at 848.

[98] BRIGGS & PEAT, *supra* note 30, at 168.

[99] *Id*.

with what that felt knowledge dictates."[100]   Clinic students learn that a blind adherence to a preexisting plan is impossible and that the imposition of personal will on others is counter to any creative solution.[101]   While clinic design models will differ, it is the principles of systems theory that should guide clinic supervisors, clinical faculty, and staff attorneys in implementing teaching methods that recognize the value of complexity and student development.[102]

IV. LEARNING FROM OTHERS: THE PEOPLE YOU WORK WITH AND FOR

A. *Developing a Community of Students*

Students learn from developing professional relationships with each other. For some legal clinic participants, this is the first opportunity to work with peers in a professional setting. Attorneys, who develop quality relationships with others in their office and other members of the legal community, benefit from a system of human resources that promote their own individual practice.[103]   Others who are unable to form quality work relationships suffer professionally, often failing to develop a cooperative network of colleagues.[104]

The skill of interacting with others in a professional setting is referenced in the MacCrate Report's Statement of Fundamental Lawyering Skills and Professional Values [SSV].[105]   The ninth skill emphasizes efficient management, including "effectively working with other people."[106] Systems theory provides clinical legal educators with certain student development principles, encouraging the teaching of the nontraditional lawyering skills outlined in MacCrate and urging clinicians to expand their view of a lawyer beyond that of an advocate.[107]   Since MacCrate, the world has become increasingly networked, pushing more

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[100] *See* SENGE ET AL., *supra* note 12, at 91.

[101] *Id*. at 91–92.

[102]*See* BRIGGS & PEATE, *supra* note 30, at 180 ("Once again the paradox: On the one hand the autopoietic system is in constant exchange with the environment, on the other it is locked into its own tight order.").

[103] *See* Lynda Gratton & Tamara J. Erickson, *Eight Ways to Build Collaborative Teams*, HARV. BUS. REV., Nov. 2007, at 10, 101–02 (discussing that one of the traits of a collaborative team is the sharing of knowledge between team members).

[104] *See, e.g*., *id*. *See also* Condlin, *supra* note 16, at 430, for a discussion on how "persuasion mode communication" calls into question how effectively a student can learn from colleagues and work supervisors.

[105] MacCrate Report, *supra* note 67, at 123–24, 191–92.

[106] *Id*. at 199–201.

[107] *See generally* Russell Engler, *From 10 to 20: A Guide to Utilizing the MacCrate Report over the Next Decade, 23* PACE L. REV. 519, *542–43* (2003), for a discussion of whether traditional legal education has helped students develop management and organizational skills.

lawyers into roles requiring collaboration and cooperation.[108]   As lawyering skills evolve, clinical pedagogy will also develop, with clinical faculty finding ways to teach nontraditional skills through student experiences. Systems thinking encourages academic and non-academic field supervisors to organize a clinic environment that promotes student interaction; clinic faculty should target the interactions as the subject of reflective learning.[109]

If a law student needs to travel out of town in order to participate in a job interview, she will need someone to take over her assigned daily task, such as intake interviews for new clinic clients or assigned office hours. She attempts to convince another student to substitute in her absence. If the student asking for help has never assisted anyone in the office, she may have trouble finding assistance herself, which might lead to creative conflict. Through conflict students are able to learn that building relationships with other members of their legal office is essential to professional survival.[110] Students gain knowledge from their environment and use their experiences to learn how to obtain assistance and achieve collaboration in work environments.[111] The clinic is organized in a way that promotes student interaction and allows faculty to observe and assist the student when needed.

The existence of a student community provides a way for individual behavior to be moderated so each individual understands the need for professional standards. Individual students arrive at the clinic with a variety of different work habits.[112] Students exhibit a wide range of professional conduct, including variations in punctuality, appropriate work attire and motivation. The group as a whole can provide a peer-based standard that influences individual professionalism.[113] A supervisor who is

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[108] *See* KISER, *supra* note 67, at 157–60.

[109] *See, e.g.*, Carolyn R. Young & Barbara A. Blanco, *What Students Don't Know Will Hurt Them: A Frank View from the Field on How to Better Prepare our Clinic and Externship Students*, 14 CLINICAL L. REV. 105, 126 (2007) (asking students to think about what was important to their supervisor).

[110] *See generally* Gundlach, *supra* note 9, at 290 (discussing the importance of building professional relationships with other practitioners and courthouse personnel). *See also* Martha Weinstein, *Mediation: Fulfilling the Promise of Democracy*, FLA. B.J., January 2000, at 35–36 (discussing how creative conflict is utilized when scholars discuss moral development, personal change, and mediation).

[111] The student will develop transactional patterns with other students in the clinic, teaching her interactive skills. *See* NICHOLS, *supra* note 13, at 129.

[112] *See* Young & Blanco, *supra* note 109, at 108.

[113] *See* Anthony L. Suchman et al., *Toward an Informal Curriculum that Teaches Professionalism; Transforming the Social Environment of a Medical School*, 19 J. GEN. INTERNAL MED. 501, 501–04 (2004). When developing a professional identity students are influenced by the social environment and organizational structure of their professional setting, internalizing the patterns of behavior that surround them. *Id.* at 501. Because law students are peers, they are able to share ideas and express disagreements with each other, developing a bond that is not influenced by a hierarchical relationship. *See* Catherine Gage O'Grady, *Preparing Students for the Profession: Clinical Education,*

a role model can be effective in establishing standards of professional conduct in the workplace, but a student-based community that regulates professionalism within the group can have a greater impact on the individual clinic participant.[114] Students want to fit in with their peer group. If they realize that unprofessional conduct is preventing their talents from being recognized, students will alter their behavior to conform to the professional standards required, allowing the group to complete assigned tasks efficiently.[115] The clinician can subtly help this process along by introducing certain group tasks that require cooperation and professionalism from a team of students.

For example, if the clinic organization is dependent upon the constant performance of intake interviews from new clients, then the clinic supervisor can assign the task to a group of students. The supervisor can provide direction and training, but it is the team that is responsible for the professional execution of the interviews.[116]

If one student needs to take a day off or calls in sick, the responsibility for covering the interviews should never fall on the supervisor but to the community of students whose responsibility it is to complete the daily task. This slight adjustment in organizational responsibility forces each student to turn to the group as a resource for learning and support. If a student is late or absent so that other students are inconvenienced or clients are treated unprofessionally, then members of the group will naturally educate

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Collaborative Pedagogy, and the Realities of Practice for the New Lawyer, 4 CLINICAL L. REV. 485, 521 (1998). By collaborating, students can learn from each other and this kind of learning should be "utilized, encouraged, and developed" and the benefit of this learning is the development of [professional] judgment. Clifford S. Zimmerman, *"Thinking Beyond My Own Interpretation": Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*, 31 ARIZ. ST. L.J. 957, 987 (1999). Professional programs have utilized complexity models to foster reflection on how individual members of their community relate with each other, resulting in unpredictable but desirable changes in patterns of interaction throughout the professional community. These models discourage elaborate Institutional mandates designed to control professional behavior. Suchman et. al., s*upra* note 113, at 504. Professional ideals, values, and identities are shaped in workplaces where lawyers discuss and practice law. "[P]rofessionalism is not a fixed set of commonly-accepted values." Peter A. Joy, *What We Talk About When We Talk About Professionalism: A Review of Lawyers' Ideals/Lawyers' Practices: Transformations in the American Legal Profession,* 4 GEO. J. LEGAL ETHICS 987, 995 (2004) (citing Robert L. Nelson & David M. Trubek, *Arenas of Professionalism: The Professional Ideologies of Lawyers in Context,* in LAWYERS IDEALS 198–211(Robert L. Nelson et al. eds 1992). The author has observed that a clinic student's professional persona evolves through her interactions with other students. When students model peers, and/or compete, discuss, disagree, complain, share task, socialize and create alliances with other students, they are crafting an individual professional identity.

[114] *See* Suchman et al., *supra* note 113, at 501–04; O'Grady, *supra* note 113, at 521; Zimmerman, *supra* note 113, at 987; Joy, *supra* note 113, at 995.

[115] *See* Suchman et al., *supra* note 113, at 501–04; O'Grady, *supra* note 113, at 521; Zimmerman, *supra* note 113, at 987; Joy, *supra* note 113, at 995.

[116] *See* David F. Chavkin, *Am I My Client's Lawyer?: Role Definition and the Clinical Supervisor,* 51 SMU L. REV. 1507, 1535 (1998) (for a discussion on how maximizing student autonomy provides an educational benefit).

the student.[117] The community can serve as an instinctive governor on the individual student's un-professional actions.[118] The role of the supervisor is to emphasize that it is the community's responsibility to complete the ongoing task with the faculty member providing the necessary tools for the students to resolve the problem.

A student who operates as part of a community realizes that in future systems she will be critiqued, judged and held accountable by peer groups, while also treating her peer group as a resource for learning. In this context, the community of students teaches the individual clinic participant that collaborative practice is a process that maximizes the "experience and knowledge" of each member of the team.[119]

Teaching collaborative practice to clinic students is a goal shared by a number of modern-day clinical faculty.[120] Scholarship in the area of collaborative practice illustrates that many clinical programs use teaching methods that instruct students on how to effectively work with others, preparing them for the eventual challenges of working with a team in a law firm or non-legal institution.[121] Recent scholarship has shown that many academics, when faced with the opportunity and promise of collaboration in international consulting work, "simply sought to transfer American legal models rather than seeking to collaborate with their overseas counterparts and adapt reforms to meet local needs."[122] This same scenario plays out between students in many collaborative settings when they are given the opportunity to work in a group or team. Many students will approach collaboration as a simple delegation of tasks instead of utilizing the talents and resources of their partner or group.[123] A clinical systems model teaches collaborative practice to the community of students by providing an environment that encourages professional interaction between students, independent of directives from clinical faculty and staff.

A clinical learning system attempts to create an atmosphere that

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[117] *See* JAMES L. ADAMS, THE CARE AND FEEDING OF IDEAS: A GUIDE TO ENCOURAGING CREATIVITY 182–83 (Addison-Wesley 1986).

[118] *See* TINA ROSENBERG, JOIN THE CLUB: HOW PEER PRESSURE CAN TRANSFORM THE WORLD 28–33 (2011) ("Identification with a new peer group can change people's behavior where strategies based on information or fear have failed").

[119] *See* Susan Bryant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 VT. L. REV. 459, 460 (1993).

[120] *See, e.g.,* David F. Chavkin, *Spinning Straw into Gold: Exploring the Legacy of Bellow and Moulton,* 10 CLINICAL L. REV. 245, 254–55 (2003); Schrag, *supra* note 2, at 181.

[121] *See, e.g.,* Schrag, *supra* note 2, at 217–20. *See generally* Zimmerman, *supra* note 113, at 1001–03.

[122] *See* Maisel, *supra* note 66, at 496 (describing approaches taken during the Law and Development era of global legal reform and emphasizing that some of the same challenges of cross-cultural collaboration exist today).

[123] This premise is based on years of observing students represent clients in teams. If not prompted by necessity to collaborate, many students will routinely split the workload evenly, creating strongly defined work boundaries and rarely collaborating on a creative level. *See also* Bryant, *supra* note 119, at 491–99; DRUCKER, *supra* note 9, at 152–53.

enhances the student's inclination toward team-building.[124]   This is accomplished by situating students and assigning tasks that make the individual student reach out to the rest of the community for aid and input. The supervisor can design the clinic in a way that allows students to work independently but in close proximity for extended periods of time on similar projects that prove challenging for one person alone.[125]   Students are also introduced to the benefits of collaborative practice by participating in an interactive clinic orientation that requires team-work and cooperation.[126]

A learning system allows students to first experience the benefits of collaboration by working with others in the initial training and orientation for the clinic. Each training exercise for clinic orientation can be designed around different numbers of participants. At times, the entire group is split into two for interactive rounds. Other times, two students will practice client interviewing together. For each training exercise, the participants can be adjusted in both number and composition, introducing them to new personalities and the dynamics of constantly changing subgroups.[127]   The training experience models effective collaborative practice for students.[128]

A clinical learning system promotes collaborative practice by creating a student workspace that allows for both independence and easy access to other students.   This work area is separate from the academic and supervising attorneys, providing freedom for group association. Schedules are arranged so that students spend time at their workstations together for some periods, free from excessive supervisory intervention.   With this setting as a backdrop, students faced with similar challenging tasks, such as managing a caseload, will naturally collaborate, anticipating that the community may offer solutions and resources lacking from their individual

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[124] *See* Iain Somerville & John Edwin Mroz, *New Competencies for a New World in* THE DRUCKER FOUNDATION, THE ORGANIZATION OF THE FUTURE 71 (Frances Hesselbein, et al. eds., 1997); Anthony F. Smith & Tim Kelly, *Human Capital in the Digital Economy in* THE DRUCKER FOUNDATION, THE ORGANIZATION OF THE FUTURE 205 (Frances Hesselbein et al. eds., 1997).

[125] The author has observed that clinic students, if confronted with challenging projects, will naturally collaborate with other students who are accessible and share a "commonality of experience." *See* Fell, *supra* note 73, at 294. *See also* Somerville & Mroz, *supra* note 124, at 71; Smith & Kelly, *supra* note 124, at 205.

[126] Schrag, *supra* note 2, at 237–38.

[127] *See id.*

[128] Students can be placed in teams of two for the purpose of training, for example, when teaching clinic students how to complete a series of forms and memorandums that they will utilize as they represent clients. If the training is interactive, then students will be encouraged to reason through the questions and challenges posed by the exercise. They may find that to arrive at an answer they may need assistance. One member of the team may provide one part of the answer, the other student, the other part. If they both have trouble, they can empower each other seek assistance from beyond the team. To brainstorm case facts, five students demonstrate to each member of the team how different individuals provide diverse views regarding the same challenge. *See* Bryant, *supra* note 119, at 491–99. (For a discussion on the different ways lawyers organize work when they work with other lawyers.).

skill set.[129]   Students recognize the need to collaborate, learning from experience that their peer group provides emotional, intellectual, and creative support.[130]   Since it was first the students' decision to cooperate, the advantages of collaborative practice become central to the students' new view of how to solve problems.[131]

A community of students is a powerful tool, teaching clinic students how their professional environment can serve as both a resource for assistance and collaboration and as a regulator of personal and professional conduct. Students learn and grow from their interactions with the system while simultaneously maintaining the individuality that contributes to the development of others in the community.[132]

B. Team Supervision

An important element of a clinic based on systems theory is the formation of quality relationships within the organization of the clinic. Emphasis is removed from the attorney-student pairing and placed on several different supervisory relationships, such as a team of attorneys or faculty and one or more students.[133]   By avoiding the single mentor relationship, the student is able to form valuable relationships with several supervisors or faculty, allowing the student to experience a diversity of professional practice types.[134]   Students who are supervised by only one attorney are subject to the intensity of the relationship with a magnification of both the positive and negative traits of the individual supervisor.[135]   By providing a team supervision system, the student learns how to work within a group and develops professional relationships with a series of individuals possessing different personalities and practice types.[136]

A resource network develops when the student learns that members of the supervision team have unique strengths that can be used and weaknesses that can be considered as a resource in a different area.[137]   One supervisor might be suitable for asking about issues of law while another may be better at explaining practice techniques. Some supervisors may be excellent counselors for personal advice while others may have more patience with answering seemingly simple questions. Students experience a diverse group of supervisors and faculty, learning from a series of

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[129] *See supra* note 124.

[130] *See* Gundlach, *supra* note 9, at 290.

[131] *See* SCHÖN, *supra* note 39, at 296.

[132] Zimmerman, *supra* note 113, at 987, 996–97

[133]   Wash. Univ. Law, *Experience*, *supra* note 15. http://law.wustl.edu/crimjustice/pages.aspx?id=407.

[134] *See* Young & Blanco, *supra* note 109, at 122.

[135] *See* Gundlach, *supra* note 9, at 290.

[136] *See* Bryant, *supra* note 119, at 460–61.

[137] *See id.*

mentors and managers in future professional settings.[138]

As students successfully meet the challenges posed by their initial mentors, they are encouraged to seek out new supervisory relationships. Student assignments are designed to balance the need for the consistency that comes with one supervisor against the benefit of the diversity possible from interaction with multiple attorney mentors.[139]

When students are supervised by a team of attorneys or multiple faculty members, they are able to see in action differing supervisory models. Some attorneys will be "directive," providing detailed instructions and at times intervening when students deviate from the supervisor's practice style.[140] Other supervisors will be "non-directive," allowing students to make practice decisions on their own, rarely intervening and granting students full practice autonomy.[141] Allowing a student to see this juxtaposition of supervisory techniques is an important component of a clinical program designed around systems thinking.[142] After experiencing both supervisory methods, the student, with the help of a faculty member to provide context is better prepared to professionally interact with future supervisors. Additionally, the student develops a differentiated professional skill set by interacting with different supervisors and establishing a diverse set of transactional skills.[143]

Allowing students to be supervised by a team of attorneys teaches the student how to operate within new "professional practice hierarchies" and remain an autonomous practitioner when faced with institutional pressures to conform.[144] Working with a community of students and a supervisor teaches clinic students to be effective collaborative practitioners.[145] Allowing students to experience the diversity of practice from many attorneys permits them to reflect upon how different attorneys possess distinct skills, values, styles, and ethical standards. Students witness how

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[138] *See* O'Grady, *supra* note 113, at 497 ("Thus, conformance pressures and hierarchical working collaborations are woven into the existing institutional framework of the practice of law."). If new attorneys are taught to value a truly diverse group of mentors, then conformance pressure may have less of an influence.

[139] How students relate to and alter the clinic structure is an area for student learning. Having students reflect upon how they can create their own professional development is important in teaching students to become autonomous practitioners not overly compliant to future institutional hierarchies. *See id* at 486.

[140] *See* Schrag, *supra* note 2, at 213–14; Chavkin, *supra* note 116, at 1535–36.

[141] *See* Schrag, *supra* note 2, at 213–14.

[142] *See* MINUCHIN, *supra* note 18, at 255.

[143] *See generally* MINUCHIN, *supra* note 18, at 51–55. Transactional patterns developed between individuals in the subsystem (mother-son, sister-brother)is how the family both operates and differentiates. *Id*. at 53. Adapting but remaining autonomous describes an individual developing in this network of subsystem relationships. *Id*. "The subsystem organization of a family provides valuable training in the process of maintaining the differentiated 'I am' while exercising interpersonal skills at different levels."*Id*.

[144] *See* O'Grady, *supra* note 113, at 486.

[145] *See* Chavkin, *supra* note 120, at 254–55.

collaborative practice can be beneficial, but they also see how collaborative practice can differ greatly depending on the standards and skills of the individuals involved.[146]   Exposing students to a number of practice partners and supervisors compels them to develop an autonomous professional style that promotes individual creativity.[147]

C. *Boundaries to Participation, Structure and Training*

Before students are allowed to participate in any clinical program, it is important that they understand they are entering a unique learning community. They enter a system designed to allow them to grow and develop in a safe and challenging interactive environment.[148]   It is important for students to understand they are entering a structured system and that adherence to training and rules will be a condition of participation.

A well-structured clinic communicates to the student that the faculty member cares about the professional development of the student.[149]   A clinic with structure and rules communicates to the student that she is part of a defined organization with an articulated set of principles and goals.[150] The establishment of structure and rules is an important step in creating an atmosphere of safe learning for the clinic participant.[151]   Some students may dislike and even rebel against the structure of the clinic, but many of those same students will find security and comfort in the fact that the clinic faculty and/or non-academic supervisor have invested time and intellectual capital in developing a program for their benefit.[152]

Training is another way to define the organization and convey the message that the student is part of the system. The more initial training that is offered to the student, the deeper the impact of the student's clinical experiences will potentially be. Training allows the clinician to dispose of small non-educational issues that burden the pedagogical process and eliminate the frustration that often occurs when students operate at different knowledge levels.[153]   Training can be designed to equalize each student's knowledge base, even before she begins her practical experiences. Before students can operate within a system effectively, they

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[146] *See id. See also* Gundlach, *supra* note 9, at 290.

[147] *See* O'Grady, *supra* note 113, at 497.

[148] *See generally* SENGE, *supra* note 34, at 325–26 (discussing the promise of simulated learning environments).

[149] *See generally* JANE BLUESTEIN, PARENTS TEENS AND BOUNDARIES: HOW TO DRAW THE LINE 112–13 (1993).

[150] *See generally id.*

[151] *See generally id.*

[152] *See generally id.*

[153] *See* DRUCKER, *supra* note 9, at 101 (discussing the importance of training both professionals and volunteers in nonprofit organizations); Schrag, *supra* note 2, at 237–38.

should learn the basics of that system. An investment in training students at the beginning of the clinic term is an essential part of defining the system for the participants, introducing them to their new arena of experiential learning.[154]

Interactive rounds within the system's major locations are an example of initial training techniques.[155] Students are taken on a tour of the physical environment in which they will operate. Groups of students are escorted around the workplace by a facilitator, who peppers the students with questions about criminal or civil procedure, demonstrating how legal principles have evolved into practice.[156] Students are not expected to know the answer, but they are encouraged to reason, think, and guess in order to come to an answer. Students are encouraged to attempt an answer even if they are not sure.[157] Encouraging students to try and potentially fail builds an atmosphere of safe experimentation in the new learning system.[158] It demonstrates that failing is acceptable as long as the student learns from the experience.[159]

Moving students interactively around the work setting of the clinic system promotes a cognitive fitness that allows them to better prepare for learning experiences.[160] The give and take, along with the tour of the clinic's setting, increases each clinic student's "ability to reason, remember, learn, plan, and adapt."[161]

The boundaries to clinical participation outlined above all are designed to define the learning system in the mind of the student.[162] Before students can start learning from others, they should understand that this clinical experience will be different from any other in their life and that their new community is uniquely equipped to mandate interactive growth.

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[154] *See* Don Moyer, *Panel Discussion: Training Daze*, HARV. BUS. REV., Oct. 2008, at 144 (reviewing a previous HBR article discussing the importance of investing in training and the importance of using simulation and interactive training methods).

[155] *See* Roderick Gilkey & Clint Kilts, *Cognitive Fitness*, HARV. BUS. REV., Nov. 2007, 53, 66.

[156] *See* PETER SCOTT-MORGAN ET AL., THE END OF CHANGE: HOW YOUR COMPANY CAN SUSTAIN GROWTH AND INNOVATION WHILE AVOIDING CHANGE FATIGUE 245 (2001) (discussing the use of prototyping tools as a quality assurance technique in organizations and companies); *see* Young & Blanco, *supra* note 109, at 109.

[157] From a faculty perspective, interactive rounds are an evaluation tool, used to assess the educational needs of each new clinic student. The clinic faculty is able to quickly analyze and make staffing assessments based on student attitudes demonstrated during rounds.

[158] *See* SCOTT-MORGAN ET AL., *supra* note 156, at 245 ("The whole idea behind this prototyping tool is to push people to their limits, and beyond- to force them to make mistakes, so they learn from them . . . .").

[159] *See id*. at 237–38.

[160] Prior to assuming control of an organization, leaders are encouraged to leave the office and walk and talk with employees before their decision-making neural networks are formed. Gilkey & Kilts, *supra* note 155, at 53, 56.

[161] *Id*. at 54.

[162] *See* SENGE, *supra* note 34, at 314. (Defining the clinic boundary helps the student realize that the clinic system is a safe place for experimentation.).

D. The Creative Conflict

Conflict can be a distraction that alters the focus of the clinic mission and impairs the delivery of services to clients. Conflict between students and other members of the clinic system seemingly diminishes the effectiveness of the teaching method.[163] Faculty members and supervisors take great pride when they see all students getting along with services and tasks being completed in a timely, efficient manner. However, the presence of conflict within the clinical system provides an excellent opportunity for adult learning.[164] When students encounter conflict, they are able to reflect on personal traits and practices that cause concerns in other members of the system.[165] In addition, educators and students are able to use clinical teaching methods to teach and learn from conflict both now and in the future.[166]

In a typical career, practitioners will face a seemingly endless number of conflict scenarios. Conflicts may arise from external sources or from within the practitioner's firm or office.[167] Regardless of the source, learning how to cope with conflict professionally is essential to any practitioner's career.[168] Understanding how to learn from conflict is the basis for promoting mature, professional growth in every student.[169]

Experiencing emotions that arise from conflict is one way for students to learn from and manage conflict.[170] Clinicians can teach students how to learn from others by allowing conflict to develop naturally within a learning system.[171] It is important not to manufacture conflict or to end it prematurely. Natural conflict is a systemic gift providing the basis for experiential learning within the clinical environment.[172] Students are forced to alter and adjust personality traits that may hinder the growth of professional relationships within the system.[173] Additionally, a

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[163] *See* LESLIE A. PERLOW, WHEN YOU SAY YES BUT MEAN NO: HOW SILENCING CONFLICT WRECKS RELATIONSHIPS AND COMPANIES… AND WHAT YOU CAN DO ABOUT IT 5–6 (2003).

[164] *See* Carolyn Copps Hartley & Carrie J. Petrucci, *Practicing Culturally Competent Therapeutic Jurisprudence: A Collaboration Between Social Work and Law*, 14 WASH. U. J. L. 133 (2004), *reprinted in* RELATIONSHIP-CENTERED LAWYERING, *supra* note 6, at 272, 278 (noting that effective cultural competency training may require conflict and an expression of anger from students); PERLOW, *supra* note 163, at 4–6; Weinstein, *supra* note 110, at 35–36.

[165] *See* Hartley & Petrucci, *supra* note 164, at 278; PERLOW, *supra* note 163, at 5; Weinstein, *supra* note 110, at 35–36.

[166] *See* STANLEY I. GREENSPAN WITH BERYL LIEFF BENDERLY, THE GROWTH OF THE MIND: AND THE ENDANGERED ORIGINS OF INTELLIGENCE 232 (1998). ("She doesn't deny her emotions but uses them as clues to make judgments."); PERLOW, *supra* note 163, at 6.

[167] Robin N. Amadei, *Using ADR Processes to Resolve Intra-Firm Conflict*, 35 COLO. LAW., 105, 105 (2006).

[168] *See* PERLOW, *supra* note 163, at 5.

[169] *Id*.

[170] GREENSPAN WITH BENDERLY, *supra* note 166, at 237–38.

[171] *See id*.

[172] *See id*.

[173] *See id*. at 232, 234–36.

professional approach to understanding conflict provides practitioners with the tools to become better litigators, negotiators, and managers. If students learn how to avoid personalizing the conflict, they are better able to step back and analyze the motivations of the parties involved.[174] "Successful conflict resolution requires the ability to put yourself in another's shoes, to acknowledge and empathically experience the other's objectives."[175] Conflict provides individuals with the opportunity to learn from others and for self-reflection. Therapists, psychologists, management theorists, educators and many other behavioral scientists have all written extensively on how to use conflict within the context of their discipline.[176]

In a clinical model based on systems theory, supervisors and faculty allow conflict, but teach students how to productively resolve the issue.[177] Conflict is not manufactured or promoted and all forms of physically damaging and psychologically abusive conflict are not tolerated.[178] Some conflicts are not useful and can cause permanent harm to one or more members in the relationship. For the more benign and potentially creative conflicts, the clinician allows these disagreements to exist, providing resources to students and demonstrating how to self-reflect, analyze and resolve the issue.[179]

Students will confront many forms of conflict throughout their career. Legal educators and supervisors, in order to help prepare students to learn from and resolve future conflict, should resist the temptation to abolish conflict and embrace the opportunities of systemic growth that conflict provides.[180]

E. Teaching, Managing, and the Hierarchy

Law students learn about themselves and how to interact with others when they assume the role of teacher, manager or supervisor.[181] The

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[174] *Id.* at 234.

[175] *Id.*

[176] *See, e.g.,* Jonathan Hughes & Jeff Weiss, *Simple Rules for Making Alliances Work*, HARV. BUS. REV. Nov. 2007, at 122, 124–26, 27(discussing leveraging differences between corporations). From working with a couple in a marriage therapy session to promoting team building in an industrial setting, the creative conflict has served as an important tool in relationship building at every level. *See id.* at 123–26, 28.

[177] Techniques of self-reflection can be used to teach students how to engage empathically, think about intentions (of self and others) and tolerate disappointment. Much like legal clinicians, practitioners in the field of conflict resolution strive to make their charges more reflective and less impulsive. *See* GREENSPAN WITH BENDERLY, *supra* note 166, at 232, 237.

[178] If two students are in a fist fight, the reflective learning process has come to an end and security needs to be called, immediately. If personally damaging insults are being made by one student to another or bullying, intimidation, harassment, stalking, hazing, prejudice or persecution is being practiced, then immediate intervention is required by faculty.

[179] *See* GREENSPAN WITH BENDERLY, *supra* note 166, at 232, 237.

[180] *See* PERLOW, *supra* note 163, at 4–6.

[181] *See* Gilkey & Kilts, *supra* note 155, at 66.

relationship formed when a student enters a hierarchal relationship with a subordinate provides a unique teaching opportunity. Before students enter the relationship, they redefine their place in the system by shifting personal goals and objectives.[182] They begin to think globally, forcing themselves to operate in the best interest of the new subordinate and the system. Some students make this shift more easily than others,[183] while others require self-reflection techniques to analyze if they can easily move beyond self-centered goals.[184] Students will face a time in the future when they will have achieved individual success but are then forced to expand their role in order to realize additional career achievements. It is the required upward shift in the institutional hierarchy that causes many individuals to stumble, retarding both individual and institutional growth.[185] Clinics can be designed so that students understand how to learn from and adapt to future work environments, becoming better institutional leaders and mentors.[186]

One way to introduce law students to the role of mentor and manager is to incorporate undergraduate interns into the clinic system.[187] Undergraduate students assume the role of the subordinate or protégé, allowing law students to practice leadership and teaching skills.[188] Additionally, law students are able to refine skills they learned as participants in the clinic by instructing other students in the development of similar skills.[189] Teaching becomes the method of learning by challenging the student-teacher to become a quasi-expert in the skill being taught to the undergraduate student.[190] The beneficiary of the relationship is the mentor "who is exposed to information and queries, and ideas from which she may otherwise be too remote."[191] Many a clinician has observed law students performing clinical duties at a mediocre level, eking by without ever rising to a higher level of practice. When students are forced to reframe their supposed knowledge in order to teach a newly acquired skill to other students, they must engage in planning and self-reflection.[192] "See one, do one, teach one" is considered a successful teaching

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[182] *See* DRUCKER, *supra* note 9, at 151 ("The most important way to develop people is to use them as teachers.").

[183] *See* ROY H. LUBIT, COPING WITH TOXIC MANAGERS, SUBORDINATES…AND OTHER DIFFICULT PEOPLE 2–3 (2004).

[184] *See generally* Young & Blanco, *supra* note 109, at 126.

[185] *See* Steven Hartwell, *Moral Growth or Moral Angst? A Clinical Approach*, 11 CLINICAL L. REV. 115, 116 (2004).

[186] *See* MUELLER-HANSON ET AL., supra note 26, at 4, 9.

[187] *See* Gilkey & Kilts, *supra* note 155, at 66.

[188] *Id*.

[189] *Id*.

[190] *See id*.

[191] *Id*.

[192] *See* Christine N. Coughlin, Lisa T. McElroy & Sandy C. Patrick, *See One, Do One, Teach One: Dissecting the Use of Medical Education's Signature Pedagogy in the Law School Curriculum*, 26 GA. ST. U. L. REV. 361, 405–06 (2009).

philosophy in other professions.[193] By making a small institutional change such as introducing undergraduate students into the clinic, the new system becomes abundant with teaching opportunities for the law students.

Traditional legal education does not emphasize principles of leadership, teamwork, and collaboration.[194] Students compete against one another for grades and class rank with little reward for developing teambuilding or mentoring skills.[195] Traditional legal learning becomes a solitary experience, forcing students to compete in exams and even open class discussions.[196] Students have traditionally learned how to think analytically in an environment of healthy competition, prodded along by a facilitator who rewards superior individual thought. What a traditional law school classroom fails to provide, however, is an environment that promotes team accomplishment in an effort to push the student to grow beyond the individual.[197] The introduction of other students with less legal knowledge into the system provides a setting that allows law students to experiment with building hierarchical relationships.

One relationship model that exposes the individually-oriented law student attempting to enter into a leadership relationship is the passing along of unpleasant tasks to the subordinate student. An individually-oriented law student usually delegates all the least desired projects to others or assigns no tasks at all.[198] Some clinic students delegate a task but provide no instruction or educational benefit; others will offer instruction, but micromanage the effort.[199] By way of self-reflection facilitated by clinic faculty, the law student is able to reframe and view her new hierarchical relationship as a resource, allowing her to develop leadership, management and teaching skills.[200] The student learns that by assigning all tasks to another student (or a subordinate in their future law practice) without investing any time or intellectual capital into the relationship, the relationship can become an increasingly negative force.[201] The student also learns that by investing time and creativity into the relationship, the

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[193] *See generally id.* at 362–63.

[194] Donald J. Polden, *Educating Law Students for Leadership Roles and Responsibilities*, 39 U. TOL. L. REV. 353, 356–57 (2007).

[195] *See id.* at 358–59; Zimmerman, *supra* note 113 at 966–67.

[196] *See* MacCrate Report, *supra* note 67, at 236; Carl J. Circo, *An Educational Partnership Model for Establishing, Structuring, and Implementing a Successful Corporate Counsel Externship*, 17 CLINICAL L. REV. 99, 110 (2010).

[197] *See* Circo, *supra* note 196, at 110.

[198] Leadership theorists utilize the concept of delegation as a leadership style in which the use of delegation by managers is dependent upon the situation, specifically the maturity level of the subordinate. *See* LEE G. BOLMAN & TERRENCE E. DEAL, REFRAMING ORGANIZATIONS: ARTISTRY, CHOICE AND LEADERSHIP 348–49 (2008); DRUCKER, *supra* note 9, at 117, (discussing the basic rules of making delegation effective).

[199] *See* BOLMAN & DEAL, *supra* note 198, at 349–50; *see also* DRUCKER, *supra* note 9, at 117.

[200] *See* WATZLAWICK ET AL., *supra* note 4, at 95.

[201] *See* DRUCKER, *supra* note 9, at 159.

subordinate becomes a powerful source of assistance and information.

Every professional will confront challenges that will require delegating tasks to other individuals. Some lawyers will be compelled to assume nontraditional legal roles in working with others and marshaling and administering human resources.[202] The MacCrate Report's SSV emphasizes this point by discussing management skills, law office administration and working with other people, presenting lawyering skills equally with "identifying and formulating legal issues."[203] The individuals who work for and with lawyers can provide needed resources. By working and interacting with undergraduates, fellow law students and supervisors in a clinic system, law students are able develop professionally healthy interactive patterns. By developing patterns through their experience with subordinates, law students learn that the delegation of tasks should be accompanied by an investment of time, teaching, and training and that the presence of others in their work environment is beneficial.[204]

V. LEARNING FROM CLIENTS

A. *The Student-Client Relationship*

A practitioner is able to learn and grow from her relationship with a client and the client's social system.[205] Each individual client provides a wealth of diverse insight about the case. In a clinic based on systems principles, students learn that clients are a resource for problem solving when students make an investment in developing a professional

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[202] *See* MacCrate Report, *supra* note 67, at 127. The Report's overview of the Statement on Skills and Values (SSV) lists the following as skill number nine: **"**In order to practice effectively, a lawyer should be familiar with the skills and concepts required for efficient management." *Id.* at 140. The Statement and overview includes effectively working with others, administering an office and allocating resources as skills and concepts. *Id. See also* Engler, *supra* note 107 at 543.

[203] MacCrate Report, *supra* note 67, at 138, 151.

[204] What undergraduate students lack in legal training, they more than compensate for in providing the clinic with much needed resources in the areas of management, communications, information technology and the social sciences.

[205] How should "client-centered lawyering," "relationship-centered lawyering" and "collaborative lawyering" models be taught to students in a clinical setting? A model based on systems theory acknowledges that the client is central to the case or the collaboration and utilizes the client and the client's community (or system) as a partner in advancing either the case or societal change. But more specifically, the systems model outlined in this article demonstrates to the student how the student-client relationship and, later in her profession, how the professional-client relationship can contribute to her own professional development and growth. *See generally* BINDER ET.AL., *supra* note 6, at 3–13; Susan L. Brooks, *Using Therapeutic Jurisprudence to Build Effective Relationships with Students, Clients and Communities,* 13 CLINICAL L. REV. 213 (2006), *reprinted in* RELATIONSHIP-CENTERED LAWYERING, *supra* note 6, at 352–60 [hereinafter *Using Therapeutic Jurisprudence*]; Susan L. Brooks, *Representing Children in Families,* 6 NEV. L. J. 724 (2006), *reprinted in* RELATIONSHIP-CENTERED LAWYERING, *supra* note 6, at 340–41; LOPEZ, *supra* note 6, at 50–51 . *See also* Gundlach, *supra* note 9, at 290–91 (for a discussion of collaborative lawyering); Ascanio Piomelli, *Foucault's Approach to Power: Its Allure and Limits for Collaborative Lawyering*, 2004 UTAH L. REV. 395, 447 (2004); .

relationship.[206]   "Practitioners commonly concentrate primarily on attempting to obtain the type of information they will need to draft legal pleadings or prepare for trial, while ignoring the skills necessary to establish a relationship with the client."[207]   Students can learn from a client in an interactive clinic which emphasizes the development of the student-client relationship, the recognition of the client's personal narrative, and the need for client-centered problem solving.[208]

Certain clinic design methods can be utilized to promote a philosophy of student-client learning. The student-client relationship can be allowed to develop, at times independently of the supervisor.[209]   A challenge for clinics is providing a physically and mentally safe, ethically sound environment that allows students to develop a professional relationship without a supervisor's presence changing the nature of the interaction.[210]

Clinical scholarship has demonstrated a difference of opinion among clinicians on the issue of whether the supervising attorney should attend the first interview with the client or whether the student should go alone.[211] A systems approach to this dilemma would emphasize that students will learn from either setting.   Students will experience different client counseling scenarios during their career. As professionals, they will be required to meet with clients alone, while at other times they will be accompanied by other professionals and individuals who will affect the interview dynamic.[212]

A clinic model that takes a systems approach allows for both supervised and unsupervised interviews at different times during the period of representation. Additionally, a hybrid supervision model can provide an interview that is both supervised and, in the same session, unsupervised

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[206] *See* Borrell-Carrio et al., *supra* note 31, at 578; Gundlach, *supra* note 9, at 290–91.

[207] Laurie Shanks, *Whose Story is it Anyway? - Guiding Students to Client-Centered Interviewing Through Storytelling* ,14 CLINICAL L. REV. 509, 510 (2008).

[208] *See* Borrell-Carrio et al., *supra* note 31, at 278–79; Shanks, *supra* note 207, at 510.

[209] *See* Carolyn Grose, *Flies on the Wall or in the Ointment? Some Thoughts on the Role of Clinic Supervisors at Initial Client Interviews,* 14 CLINICAL L. REV. 415, 419–20 (2008).

[210] The concept advanced in Heisenberg's uncertainty principle is referenced in this article to advance the discussion of how system observers can affect, influence and alter the inner workings of the system that they attempt to evaluate. *See* BRIGGS & PEAT, *supra* note 30, at 51("Heisenberg's uncertainty principle showed that the actual properties of objects could no longer be separated from the act of measurement and thus from the measurer himself."). *See also* JOHN GRIBBIN, IN SEARCH OF SCHRÖDINGER'S CAT: QUANTUM PHYSICS AND REALITY 119 (1984); Chavkin, *supra* note 116, at 1531–32. Student training, a well-defined supervision structure and the pre-screening of clients are safeguards that promote a physically safe and ethically sound non-supervised client interview experience. *See* April Land, *"Lawyering Beyond" Without Leaving Individual Clients Behind*, 18 CLINICAL L. REV. 47, 74 (2011). *See also* Patrick C. Brayer, *Opposition to Clinics Tests Attorney-Client Privilege*, NATIONAL LAW JOURNAL, Sept 6, 2010 at 20; Missouri State Public Defender System training materials, discussing intern ethics, professionalism and safety, on file with the author.

[211] Grose, *supra* note 209, at 423–25.

[212] *See id*.

when the student is allowed to meet alone with the client.[213] The exit or entrance of the supervisor will dramatically change the client interview system, calling the student's attention to the changing dynamic.[214] The student learns that changing systems will alter the entire "chemistry" of the interview.[215] When a student comprehends how an observer or active participant can change the tone and message of the counseling session, she is better prepared to develop successful professional relationships with clients in the future.

The clinic system can teach students how to learn from clients by creating professional student-client relationships separate from the client's case.[216] Creating an environment of solo student-interview sessions that only involve non-case related dialogue is an important step in promoting the relationship. An exercise that promotes the learning process in an unsupervised interview is for the student to avoid discussing the client's pending case, focusing instead on issues of the client's background, family and social system. [217] Students are challenged to find the narrative surrounding each client, personalizing the individual while deemphasizing the merits of the case.[218]

 Students report back to the supervisor and the supervisor confronts them with any subject areas concerning the client's personal story missed in the interview. Students are encouraged at the next client session to continue the development of the narrative.[219] A follow-up student-client conversation compels the students to abandon outlines and interview questionnaires and, instead, listen to the client's thoughts and perceptions.[220]

In another systems based exercise, students are not told the legal issue before they meet with the client and are instructed to only talk about the client's personal history.[221] They are informed of the client's legal case after the completion of the interview. This exercise encourages students to

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[213] *See* Grose, *supra* note 209, at 422–23 (for an example of a different hybrid supervision approach that called attention to the presence of the supervisor).

[214] *Compare* Grose, *supra* note 209, at 423–25, 429., *with* Chavkin, *supra* note 116, at 1532.

[215] Grose*, supra* note 209, at 423–24*.; See also* Chavkin, *supra* note 116, at 1532.

[216] *See* Brooks, *supra* note 205, at 355–58 (discussing how best to engage students in the attorney-client relationship).

[217] *See* Shanks, *supra* note 207, at 510–11 (discussing training exercises that can be utilized to promote "client–centered interviewing").

[218] *Id*. at 510

[219] The author has utilized these exercises for over twenty-two years of supervising clinic students in an attempt to provide an authentic environment for building the student-client professional relationship. These exercises are systemic in nature because they allow for the actual interaction (between student and client) to teach the student how to learn from clients in that previous assumptions about the client are challenged and a new set of "cultures," "values," and "priorities" are revealed. *See* Madden, *supra* note 6, at 152.

[220] *Id*.

[221] *Id*.

acknowledge the client as an individual before being introduced to the facts of the case.

Students learn how to learn from their clients by moving away from the legal case and delving into the personal narrative.[222] If the center of the conversation becomes the client's story rather than the case facts, students respond less to the impersonal legal issues of the case.[223] Upon reflection, they realize that the strategy and theory of the case will emerge if they listen to the client's personal narrative, allowing the client relationship, and, potentially, a relationship with the client's family and/or support system to be a resource. When the students comprehend they are responsible for a caseload of sons, daughters, fathers, and grandchildren, and real people with real problems instead of simply legal ones, they will experience the psychological tension that is necessary for effective reflective learning and move away from a previous equilibrium, mandating a new approach to problem solving.[224]

B. *Caseload Management*

Teaching students to learn from clients also involves teaching them how client relationships can motivate and change the creative professional thinking process. Students learn how to solve client-related problems when they are forced to confront the anxieties and stress that come with representing a variety of clients in need of assistance.[225] One challenge for new lawyers is the management of a multi-client caseload who each bring with them an extensive list of duties and responsibilities.[226] In the public interest sector, new attorneys are constantly faced with the unenviable task of representing a large number of clients with very little assistance.[227] If students are encouraged to face these anxieties and stresses under the watchful eye of clinic faculty, they are better equipped to tackle the myriad duties that will come with future caseloads and understand how authentic client relationships will alter professional thinking. When a student is

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[222] *See* Shanks, *supra* note 207, at 510.

[223] *See* BIGGE & HUNT, *supra* note 40, at 488 (indicating that a psychological tension is needed for problem-centered teaching.).

[224] *See* BIGGE & HUNT, *supra* note 40, at 488.

[225] *See* Gundlach, *supra* note 9, at 295–96 (discussing the advantages and disadvantages of a practitioner experiencing a specialized caseload).

[226] *See* SCHÖN, *supra* note 28, at 60–61.

[227] *See* ABA Formal Opinion 06-441*: Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseload Interfere with Competent and Diligent Representation* (May 13, 2006.) (This opinion warns that ethical violations may arise when public defenders and other court-appointed attorneys are required to represent an excessive number of clients. This ethical violation occurs when an attorney's workload prevents him/her "from providing competent and diligent representation to existing clients."). *See also* Missouri Public Defender Commission v. Waters, 370 S.W.3d 592 (Mo. 2012). *See generally* Jonathan A. Rapping, *National Crisis, National Neglect: Realizing Justice Through Transformative Change*, 13 UPENN J. L. & SOC. CHANGE 331 (2009-2010).

required to represent more than one client on multiple legal issues, she must think about problem solving in a different way. The psychological tension of a client caseload continually moves the student out of a momentary equilibrium with the clinic system, promoting growth and new levels of complexity while prompting the student to reframe how she looks at the system and finds creative ways to problem solve.[228]

When confronted with a caseload of client-centered challenges, the student perceives the surrounding systems and subsystem members that make up the clinic environment differently.[229] She moves out of an observational interaction with her system and begins to strategize how her immersion in the system will assist her clients.[230] This shift away from observational thinking is a growth opportunity that can be experienced by a clinic participant.[231] The caseload responsibility prompts the student to intellectually shift how she approaches problem solving, requiring the individual to seek new ways to achieve creative solutions.

Students learn that identifying the problem is no longer the main goal of their new challenge. Years of education have conditioned the individual to study how the problem evolved, review the data and identify the issue.[232] She has been intellectually trained to concentrate on the "why" of a problem and not the "what."[233] Managing a caseload of clients requires the student to become solution-oriented. She realizes that identifying the origin of a problem does little to advance a creative solution.[234] Some clinic participants are experiencing for the first time the need to concentrate less on the cause ("the system is broken") and more on the effect ("I need to find a solution for my clients"). It is the stark reality of the client's circumstance that requires the student to seek creative solutions and draw upon her environment for assistance.

When students understand that a solution is needed, they are soon confronted by obstacles in the system that impedes their desired course of action. For example, a judge may refuse to lower the bond of an indigent client. Frustration and anger soon engulf the new advocates as they perceive the situation with despair. The need to help the client guides students past their initial frustration and prompts them toward creative ways to reinterpret the problem.[235] They are forced to reframe how they

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[228] *See* Gundlach, *supra* note 9, at 295–96 (citing SCHÖN, *supra* note 286, at 60–62).

[229] *Id.*

[230] *See* SCHÖN, *supra* note 28 at 60–61 (a caseload requires a practitioner to develop "a repertoire of expectations, images, and techniques.").

[231] *See* Ross, *supra* note 3, at 789, 793.

[232] *See* WATZLAWICK ET AL., *supra* note 4, at 86–87.

[233] *See id.;* GERALD NADLER ET AL., CREATIVE SOLUTION FINDING: THE TRIUMPH OF FULL-SPECTRUM CREATIVITY OVER CONVENTIONAL THINKING 388 (1995).

[234] *See* WATZLAWICK ET AL., *supra* note 4, at 86–87.

[235] *See* Gundlach, *supra* note 9, at 308.

view the obstacles blocking effective representation, looking at the motivations of the different system members.[236] Students who understand the motives of the judge who will hear their motion may easily rework their argument and emphasize different facts so that the goals of the client parallel those of the judge.[237] The judge may not lack compassion but may simply have different concerns not originally understood by the advocate. Reframing allows the clinic member to focus less on the obstacle and more on a solution.[238] The student rethinks her perception of the judge from being a problem to a resource that can assist both the client and the advocate.

If students reframe how they look at the system, they are encouraged to change their argument to a judge, opposing counsel or even a jury.[239] The student advocate realizes that different people look at the same system in a variety of ways and that she needs to shift her focus from how she feels to how others see the client's story from a different perspective.[240] By understanding that the solution presents itself in the problem and by attentiveness to the uniqueness of each individual in her system, she is better able to craft new creative strategies to help her clients.[241] In addition to prompting students to be better problem solvers, the student-client relationship also introduces clinic participants to the role of coordinator, facilitator and organizer, teaching students how to lead others and administer needed change.

C. *Leadership Skills and Working with Clients*

When a student represents a client in a clinical setting, they both become engaged in an interactive subsystem that allows the student to develop certain skills.[242] Interactions with different and diverse clients allows students to develop new skills.[243] The student practitioner is pushed by the interaction into further developing a "social intelligence" that is measured by her ability to demonstrate emotionally and socially competent behaviors.[244] The entire clinical experience encourages the student to develop a social intelligence, but it is the client relationship that expands

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[236] *See* WATZLAWICK ET AL., *supra* note 4 at 82–83; SCHÖN, *supra* note 39, at 39–40.

[237] *See generally* NADLER ET AL., *supra* note 233, at 400–01.

[238] *See* WATZLAWICK ET AL., *supra* note 4, at 81–83, 86–87.

[239] *See* RICHARD BANDLER & JOHN GRINDER, REFRAMING: NEURO-LINGUISTIC PROGRAMMING AND THE TRANSFORMATION OF MEANING 42–43, 177 (Steve Andreas & John Grinder eds., 1982) ("Being able to think about things in a variety of ways builds a spectrum of understanding.").

[240] *See id.* at 42–43, 126, 177.

[241] *See* NADLER ET AL., *supra* note 233, at 429.

[242] *See* MINUCHIN, *supra* note 18, at 255.

[243] *See* MINUCHIN, *supra* note 18, at 51–52; *see* NAPIER WITH WHITAKER, *supra* note 22, at 50.

[244] *See* Daniel Goleman & Richard Boyatzis, *Social Intelligence and the Biology of Leadership*, HARV. BUS. REV. 74, 76 (2008).

the ability of the student to advance the interpersonal qualities of empathy, attunement, influence and inspiration.[245] All these qualities are essential components of the skill set of any future leader, though these skills are traditionally lacking in many individuals who have influential positions today in business, law and government.[246]

The "authentic context" of the client relationship can be one of the ways that the system of the clinic helps the student develop the social circuitry necessary to become an effective leader.[247] As students work with clients, they engage in a give-and-take that results in an interactive trial and error, leading to transactional patterns that ultimately promote cooperation from the client.[248] Students learn that an understanding of and empathy toward the client's circumstances is essential before they can earn the client's assistance and respect. A disengaged student lacking understanding or a genuine interest in the client will experience a lack of cooperation from the client.[249] If properly supervised by clinic faculty, the negative experiences of the relationship can be reframed to alter the student practitioner's social behavior, resulting in a more productive experience for both parties.[250] When a student becomes more than an observer in the client relationship, she becomes the primary participant in the relationship and benefits from the authentic context of working with a client.

The subsystem that is the student-client relationship forms the basis for learning leadership skills. A genuine understanding of the importance of empathy is essential for both leaders and practitioners.[251] The professional, by the very nature of the relationship, is the leader of the two-person social system. The student learns that engaging the client in a dialogue, not bullying, lecturing, or condescending, is the surest way to achieve the professional goals of the relationship.[252] As leadership skills are developed in the clinical context, students learn that empathy, attunement and inspiration through dialogue are important skills that will help them adapt as leaders of future systems.[253]

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[245] *See id.*at 78–79.

[246] *Id.*

[247] Developing theories in the fields of management and social neuroscience indicate "that certain things leaders do - specifically, exhibit empathy and become attuned to others' moods- literally affect both their own brain chemistry and that of their followers." *Id.* at 76; when a leader and a follower enter into a relationship, their brains become interconnected in a way that forms a "single system." *Id.*

[248] *See id.*

[249] *See generally* Gundlach, *supra* note 9, at 290–91.

[250] *See* BANDLER & GRINDER, *supra* note 239, at 42–43, 177.

[251] *See* Goleman & Boyatzis, *supra* note 244, at 76.

[252] *See generally* Gundlach, *supra* note 9, at 290–91.

[253] *See* Goleman & Boyatzis, *supra* note 244, at 78–79.

VI. Learning from Self

The clinic can provide a rich environment in which students are encouraged to develop a personal philosophy, assisting them in adapting to future environments and systems. If students are not challenged by the environment of the clinic, they are relegated to the role of observer, lapsing into "unwarranted conclusions" and "false generalizations."[254] Complete immersion into the system fuses the objective and subjective realities of legal work, establishing a firm base for the growth of a reasoned self-philosophy by each student. "[W]hat educational theorists have been saying for years: that the best learning takes place when the broad range of abilities we possess is engaged."[255] Once the student is completely immersed in the new learning system, the student will interact with herself and become aware of old ideas and concepts that no longer square with the reality of the situation. It is at this point that clinical faculty plays a crucial role.[256]

The role of the clinical faculty in developing a student's philosophy of self is well-established in the methods and principles of clinical education.[257] The academic provides the student with the tools and guidance for self-reflection and self-critique. "They began to work with their students to explore the theoretical underpinnings and practical dimensions of lawyering skills and professional values. To help students develop the skill of self-reflection, clinical faculty critiqued them and encouraged them to employ self-critique."[258] The use of self-reflection helps the student develop an inner learning philosophy, allowing her to adapt to new learning in future environments. The academic demonstrates to the student a disciplined process to evaluate and learn from experience and to arrive at a personal philosophy of learning and development.[259]

In a collaborative learning system, the non-academic supervisor provides the environment and experiences, though not necessarily the analytical tools, to promote the development of a personal philosophy. The placement supervisor or coordinator creates the system, prompting the student to develop a philosophy of self. The academic provides the tools,

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[254] AYN RAND, PHILOSOPHY: WHO NEEDS IT 6 (Bobbs-Merrill Co. 1982) (from an address at the United States Military Academy at West Point on March 6, 1974).

[255] Barry et al., *supra* note 1, at 38.

[256] At new levels of complexity (far from equilibrium), living organisms couple structurally to their environment but also to themselves. CAPRA, *supra* note 12, at 270. Far from equilibrium, organisms utilize multiple feedback loops and at a certain bifurcation point the organisms' behavior can take multiple paths, dependent on the previous history of the living system. *Id.* at 180–82. Clinical faculty involvement is crucial at the bifurcation point, assisting the student to reflect upon past behavior and assess new complexities influenced by new interactive experiences. *See also* Suchman, *supra* note 8, at S40.

[257] *See* Joy, *supra* note 1, at 387.

[258] Barry et al., *supra* note 1, at 17.

[259] *See* Joy, *supra* note 1, at 393–94.

guiding students when their environment requires them to resolve ethical issues, understand emotions, and evaluate failure or success. The individual herself becomes a resource for future learning, developing a self-awareness of how she individually promotes or impedes her own development.[260]

A. The Ethical Code

Students learn from self when subjective beliefs confront objective realities.[261] When a student is required to conform to a set of professional standards, the relevance of her personal moral code is brought into question.[262] Some students enter the clinic with very little experience in adapting their conduct to rules that are designed to advance the efficacy of a given profession or trade. For many student practitioners the only training they have received in operating under a code of conduct is being taught to obey the rules of their family and the laws of society.[263] Even though students are required to obey the rules of their job, school, team, religious institution or organization, they still have little experience with interpreting a professional code of conduct.[264] Personal beliefs concerning right or wrong confront the professional necessities codified under professional rules.[265] The student practitioner is forced to set aside individual ethical standards and adopt professional standards that may be inconsistent with her own. Additionally, students learn that living by a code of conduct requires real world interpretation and a balance of potentially conflicting alternatives.

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[260] *See* RAND, *supra* note 254, at 6.

[261] *See id.*

[262] Social critics have recently observed that our American society is embracing a new moral freedom where individuals are reinterpreting (not abandoning) traditional rules of morality to meet the individual needs of their modern lives. ALAN WOLFE, MORAL FREEDOM: THE SEARCH FOR VIRTUE IN A WORLD OF CHOICE 229–30 (2002).

[263] *See* Young & Blanco, *supra* note 109, at 109 (drawing attention to the reality that many law students have little real life experience).

[264] *See id.*

[265] For example, clinic students may find it difficult not to explain to their family and friends about the interesting story they heard from a client that day. Some will not perceive that advising a client, unsupervised, about strategy and tactics could be practicing law without a license. And others will find it counterintuitive not to engage in a personal relationship with a very wonderful person who works for opposing counsel. The supervisor and clinician can be ever vigilant for teaching opportunities, helping students to identify ethical dilemmas in supposed innocent interactions. As part of the Washington University School of Law Criminal Justice Clinic, students are trained to recognize ethical issues as they arise in the field. Common areas of ethical concern are: practicing law without a license, breaching client confidentiality, and engaging in activities that would be considered a conflict of interest. *See* Ethics based training materials for the Criminal Justice Clinic and Missouri State Public Defender System on file with the author. *See also* Kelly S. Terry, *Externships: A Signature Pedagogy for the Apprenticeship of Professional Identity and Purpose*, 59 J. LEGAL EDUC. 240, 244–45 (2009); Young & Blanco, *supra* note 109, at 128–29; *Criminal Justice Clinic*, WASH. UNIV. SCH. OF LAW, *supra* note 15 (Experience).

The need for lawyers to balance a personal morality with ethical standards set by the profession is evident when comparing both skills and values in the MacCrate Report's SSV.[266]   The report envisions a practitioner who is able to promote justice, fairness, and morality while spotting and resolving ethical issues.[267]   The balance of personal values with professional skills is achieved when lawyers confront both moral and ethical issues in practice, at times resolving the conflict between individual beliefs and professional standards.[268] By acknowledging that an individual morality is a component of both lawyering skills and values, MacCrate and the Carnegie Foundation Report deem a law student's moral system part of that student's professional education, indicating that traditional legal education may be limited in teaching the complex balance between ethics and morality.[269]

The challenge that confronts clinicians is encouraging students to embrace their natural tendency to "look into themselves" when making an ethical decision.[270] Students are required to switch their focus toward the interest of the client and profession within the context of a code of professional conduct. They are systemically a smaller part of a greater whole and are forced to adapt individual beliefs and interests to promote a greater ethical and moral good.[271]   Each individual adaptation to professional standards will result in the growth of a personal methodology. The student learns how to seek self-counsel in confronting new ethical challenges. Different theorists have approached the field of ethics from distinct perspectives, but a common theme across many works is the decision-making methodology of self-reflection and principled analysis.[272]

The clinic supervisor or faculty can foster the development of a personal decision-making methodology by implementing a simple but articulate ethical code of conduct for students. The code of conduct can be designed specifically for students, but derived from the controlling rules of professional responsibility in that jurisdiction.[273]   The code is written, distributed, and discussed in early training with every student, and the

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[266] *See* MacCrate Report, *supra* note 67, at 124–25. In the Report's Statement on Skills and Values (SSV), skill number ten focuses on ethical issues with value two discussing justice, fairness and morality. *Id*. at 140.

[267] *Id*.

[268] *See* Russell G. Pearce, *MacCrate's Missed Opportunity:The MacCrate Report's Failure to Advance Professional Values,* 23 PACE L. REV. 575, 581–82 (2003).

[269] *Id*.; Carnegie Foundation Report, *supra* note 67, at 134, 142.

[270] Individuals are not disregarding past codes of morality but rather redefining and interpreting them so that the codes conform to their individual beliefs and way of life. WOLFE, *supra* note 262, at 229–30. "But for nearly all of them, when a moral decision has to be made, they look into themselves– at their own interests, desires, needs, sensibilities, identities, and inclinations–before they choose the right course of action." *Id*. at 196.

[271] *See id*. at 229–30.

[272] *See, e.g.*, Schrag, *supra* note 2, at 184.

[273] *See, e.g.*, MODEL RULES OF PROF'L CONDUCT R. 5.3 (2002).

conduct requirements are woven into every part of clinic policy and procedure.[274]   A student ethical code is strictly administered but communicated in a way that invites dialogue concerning how issues are spotted and resolved in the field, acknowledging that at times students will fail to spot issues.[275] Once supervisors or clinicians have developed a code of student conduct, they are able to bring the code to life by searching for ethical concerns in student communication and interaction. The supervisor and the academic teach by issue-spotting and guide the student toward future recognition.

Spotting ethical issues in the field takes practice. A ubiquitous code of professional behavior confronts students with the reality that their personal moral system has not solely prepared them to identify and ethically resolve the issues facing a legal practitioner.[276] The student can train themselves, with the help of clinic faculty, to develop a personal mental methodology that magnifies ethical issues as they arise.[277] Additionally, the student can develop an inner mechanism that quickly resolves questions of professional conduct, using both moral beliefs and professional values as decision-making tools.   Utilizing an environment of colleagues and advisors is always a preferred professional course, but for many practitioners professional dilemmas present themselves in an instant, allowing no time for a methodical resolution. A personal philosophy of professional behavior is a valuable tool in combating the flawed mental lapses that can plague a career. A code of behavior for clinic students, if properly administered, is another example of how the clinic system can teach students the balance between personal morality and professional ethics, encouraging the development of a philosophy of individual professional development.

B. *Expanding the Emotional Range*

The practice of law is arguably a profession dominated by emotion.[278] In an average career, practitioners experience a variety of emotional responses as they attempt to help clients confronting change and an uncertain future. They may experience emotions as they realize that there is rarely enough time to complete all the tasks of a demanding profession, while supporting the needs of family, friends, and self. Practitioners will

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[274] *See* Schrag, *supra* note 2, at 221–22.

[275] *See supra* text accompanying note 270.

[276] For example, when students are told to keep client communications confidential, they often visualize a simplistic application without ambiguity or confusion. In practice, they find it difficult to spot and resolve the issue.

[277] *See* Schrag, *supra* note 2, at 184.

[278] *See* Erin Ryan, *The Discourse Beneath: Emotional Epistemoloy in Legal Deliberation and Negotiation,* 10 HARV. NEGOT. L. REV. 231 (2005*), reprinted in* RELATIONSHIP-CENTERED LAWYERING, *supra* note 6, at 308.

also utilize emotion to convince others to act in an appropriate and just manner.[279]   Emotions allow lawyers to better understand clients and communicate their stories to others.[280] Additionally, emotions are a natural byproduct of an adversarial system dominated by wins and losses and scored by dollar amounts and years of incarceration. Since law is a profession about people and personalities, emotional interaction is a necessary consequence of the legal profession and an obligatory consideration when designing and operating a clinical program.[281]

To understand and benefit from emotions, students experience and contemplate emotion in the professional setting of the legal clinic. They first recognize emotional responses in self and learn what that emotion is telling them about their interactions.[282]   Students should recognize the long-term detrimental effects of some emotions, practicing techniques that lessen unwanted anger and hate. Students, with the help of the clinic environment and the academic, learn how to utilize emotion as a tool to predict the actions of others.[283]   A systems based clinic develops an awareness of emotion in students by creating a culture that acknowledges the existence and usefulness of emotion in a professional setting. The environment teaches students to learn from self as they study personal emotions and the emotions of others.

The purpose of a learning system is to expose students to a greater range of emotional experiences. Emotion is intertwined with how students learn, make judgments and strategize. If the clinic fails to provide an atmosphere of differentiated emotional development, students will be unable to draw on past personal experience as a tool for growth.[284]   A lawyer making a difficult decision when she is frustrated utilizes a very different mental process from that utilized when making the same decision

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[279] *Id*. at 308.

[280] "[O]ur remarkable cognitive system – which delivers to us the factors relevant to any given problem. It enables us to pick out from another's world view the particular thoughts important to determining his or her behavior in a specified case." Jane Heal, *Simulation, Theory, and Content*, *in* THEORIES OF THEORIES OF MIND 75, 84 (Peter Caruthers & Peter K. Smith eds., 1996).

[281]   The greater range of emotions experienced results in enriched levels of professional knowing. *See* SENGE ET AL., *supra* note 12, at 197. *See also* Ryan, *supra* note 278, at 309–10 (discussing the benefits of lawyers having emotional wisdom).

[282] Neurobiologists have advanced the proposition that emotions are not just feelings but rather a cogitatively strong mix of "feelings with willing and with judgments." GERALD M. EDELMAN, BRIGHT AIR, BRILLIANT FIRE: ON THE MATTER OF THE MIND, 176 (1992). *See also* Ryan, *supra* note 278, at 308–09.

[283] Of special interest to the legal practitioner is the simulation theory that people use personal motivational and emotional resources to simulate how others will behave under certain circumstances. *See* Robert M. Gordon, *'Radical' Simulationism*, *in* THEORIES OF THEORIES OF MIND, *supra* note 280, at 11.

[284] *See* CAPRA, *supra* note 12, at 269. We understand our world by way of interaction, "and our emotions can limit or enrich that interaction." SENGE ET AL., *supra* note 12, at 197. Perception, emotion and behavior become the process of environmental coupling, promoting development and learning by way of structural change. *See* CAPRA, *supra* note 12, at 286.

when pleased.[285] A student learning while fearful uses a process different from that used when she learns while excited.[286] Practitioners will experience a spectrum of emotions in a career that demands a seemingly infinite number of mental tasks. The clinic faculty member assists the student in detecting and understanding how personal emotions play a part in her practice. The clinic system provides opportunities that expand the student's emotional range, supplying faculty with more opportunities for reflective teaching.

Is the primary goal of the clinic to provide effective skills training for future practitioners? Regardless of the answer to that question, a clinic environment can exploit the benefits of skills training and practice, expanding the emotional experiences of the student.[287] When student practitioners utilize developing advocacy skills to represent clients, they start experiencing and observing emotions in themselves and others. Skills training, as part of a student's legal practice increase the individual's emotional range within the context of actual client representation. The new anxieties, excitements and fears come to the fore, exposing students to old individual emotions in professional settings. [288]

Differing practice requirements and clients present a new set of emotional interactions. A prime example is how an individual copes with losing in court when a client's liberty or property is at stake. Does she experience anger, frustration, sadness or indifference? Does she slam the file down on the counsel table or does she ask opposing counsel to lunch? The intensity, type and range of emotions are much different when a student becomes a practitioner than when she helps and observes.[289]

Actual client representation or advocacy by the student in and out of court is an important part of increasing the student's emotional range. Skills training provides students with the opportunity to practice, allowing students an environment that builds a future methodology of learning.[290] The increased complexity of the legal task allows students to experience a number of emotions within a professional context. The prospect of failure is what exposes the practitioner's emotions.[291]

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[285] *See* EDELMAN, *supra* note 282, at 176. Students, who experience a greater range of emotions during their clinic experience, will be able to see how various emotions effect different mental processes in the future. *See, e.g.*, ADAMS, *supra* note 117, at 128.

[286] *See* ADAMS, *supra* note 117, at 128.

[287] *See* Ross, *supra* note 3, at 779–80 (outlining a debate concerning the primary goal of clinical education; skills training or social justice). *See also* Schrag, *supra* note 2, at 182 (emphasizing the law clinic's role in helping students interpret feelings).

[288] "Emotions and memory contribute significantly to our personality, our self." Joseph E. LeDoux, *Emotion, Memory and the Brain*, *updated in* SCI. AM., Aug. 2002, at 71.

[289] *See generally* Moyer, *supra* note 154, at 144.

[290] *See* Gundlach, *supra* note 9, at 308.

[291] *See* ADAMS, *supra* note 117, at 128.

Before a student can learn from failure, she must experience failure in a safe, non-threatening environment.[292] Skills training in the context of student practice allows for the clinic participant to experience the effects of her professional judgments and actions. As with all professional practice, judgments and actions can lead to mistakes and perceived failure. If these mistakes are acknowledged and then accepted by the clinic environment as a means toward individual professional growth, the student is able to learn from mistakes.[293]

The systems learning model incorporates a multitude of practice requirements that influence the student's emotional reactions. Performing a practice skill introduces the student to the emotional range that results from representing clients whose fundamental freedoms are at stake and when professional failure is a possibility.[294] The reality of practice engulfs the students, causing emotions such as fear, anger, excitement, doubt, happiness, sadness, satisfaction, apprehension and many others to present themselves. As students progress in their careers, they develop a personal style and philosophy of self which accommodate the dominant emotions experienced during their professional practice.[295] They comprehend that certain emotions will arise at certain times and can contemplate how to utilize their future emotional reactions as a tool that interprets and communicates with future systems and environments.[296]

The student learns that fear before a practice event can be a destructive emotion, but at the same time the student can learn how fear can be an early warning sign that she is unprepared for the task and requires greater help from clinical supervisors, faculty, or her colleagues in the future.[297] Students learn that trusting a feeling of anger can be helpful in understanding a subconscious assessment of opposing counsel after a failed negotiation and how that assessment can lead to new strategies and techniques.[298]

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[292] *See, e.g*., SCOTT-MORGAN ET AL., *supra* note 156 , at 237, 245.

[293] *See, e.g*., ANTONIN SCALIA & BRYAN A. GARNER, MAKING YOUR CASE: THE ART OF PERSUADING JUDGES 205 (2008).

[294] *See* Gundlach, *supra* note 9, at 308; *See also* LeDoux, *supra* note 288 at 62, 70 (discussing the impact of emotional memory).

[295] *See* Gundlach, *supra* note 9, at 308.

[296] The cognitive system of understanding and interpreting is intertwined with the emotional system that makes decisions quickly. W. Wayt Gibbs, *Why Machines Should Fear*, SCI. AM., Jan. 2004, at 37, 37A (quoting Donald Norman).

[297] The role of the human emotional system is to make judgments, resulting in people thinking differently when they experience different emotions. *See* Sally Maitlis & Hakan Ozcelik, *Toxic Decision Processes: A Study of Emotion and Organizational Decision Making*, ORG. SCI., July-Aug. 2004, at 376–77.

[298] Empathy is a product of emotional simulation and plays a role in how we conduct moral reasoning. Shaun Nichols et al., *Varieties of Off-line Simulation*, *in* THEORIES OF THEORIES OF MIND, *supra* note 280, at 59.

Skills training allows the clinician to identify, assess, and modify behavioral traits that impede the students' professional development.[299] The intellectual challenge and mental pressure that accompanies all skills training pushes the students to the point where professional shortcomings are exposed and a future plan for personal growth can be developed.

C. Closure

For the student, how a clinic ends is as important as all the other experiences that contribute to the learning environment. Programming closure into the clinic experience provides the student with the ability to organize the plethora of systemic experiences into a cumulative narrative that serves as a basis for future learning. Proper closure allows the student to place clinic experiences into a personal context, promoting the development of a personal style and a core philosophy for future learning.[300]

Programming closure is accomplished by introducing end of clinic events designed to provide meaning to the large number of experiences that occurred during the clinic term. Exit interviews, students performing a closing argument, students training their replacements, and social functions are all events that provide closure for students.[301] All these events are effective because they require self-reflection and a refocusing of newly acquired knowledge. A common goal of all closure events is for students to find an individual professional voice.[302]

Students who approach the end of a well-developed clinical program, fortified with a number of diverse interactions, will experience a sense of loss or grief.[303] They will no longer have frequent contacts with other clinic students and faculty. They will lose a sense of self-importance and worth that comes from working on cases which directly impact clients' lives. Additionally, they will lose a routine that fostered the development of professional and personal relationships. If the clinic environment is

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[299] *See* Borrell-Carrió et al., *supra* note 31, at 580. *See also* Joy, *supra* note 1, at 393–94.

[300] A personal philosophy will guide law students in their career by adding value to all their future professional interactions. *See* DORIS KEARNS GOODWIN, TEAM OF RIVALS: THE POLITICAL GENIUS OF ABRAHAM LINCOLN 640 (2005).

[301] "And the presence of apprentices forces masters to make as explicit as possible the implicit knowledge they have." SCOTT-MORGAN ET AL., *supra* note 156, at 249. The exit interview is the one closure event that asks the student to look into themselves and articulate a personal plan for individual growth. Shortcomings are identified and strengths are applauded.

[302] The words of Lincoln provide an example of how a core personal philosophy can anchor an individual and guide them in turbulent times. "I must keep some consciousness of being somewhere near right: I must keep some standard of principle fixed within myself." GOODWIN, *supra* note 300, at 640.

[303] Grief can be experienced when individuals change position or situation. ALLA BOZARTH-CAMPBELL, LIFE IS GOODBYE LIFE IS HELLO: GRIEVING WELL THROUGH ALL KINDS OF LOSS 132 (1986).

well-constructed, students will face the loss of a social system and experience a kind of grief associated with great personal change.[304]

The therapeutic concept of a review can factor in developing closure methodology for the clinic system.[305] All closure events provide some form of review encouraging the student to reflect upon both achievements and areas for improvement. The student is forced to confront the issue of professional survival outside of the clinic and the clinic's survival without the student.[306]

The clinic supervisor and clinic faculty member can design programs and events at the end of the clinic experience that call for the student to reflect upon and review past and future professional development.[307] It is important that these programs by their very nature require review, allowing the clinic system to provide the tools of closure. The events should be constructed so that students are required to contemplate how they were able to learn from others, learn from clients, and learn from themselves. Some examples include clinic students training new law students as replacements, students arguing an actual client's case in a mock closing argument to faculty and staff, and students engaging in an exit interview with both supervisors and clinic faculty.[308] Focusing on issues of change and growth in future systems, these closure events serve as a portal to future learning. The events force the student to develop a personal narrative and/or philosophy that serves as a touchstone for future creative change when facing the task of adapting to future systems.[309]

VII. CONCLUSION

When individuals enter an interactive learning environment like a legal clinic or new professional work setting, they learn their new professional trade by interacting with individuals they work with, by interacting with clients, including the client's friends and family, and by interacting mentally and emotionally with self. With each new interaction, students

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[304] Individuals experience a "quiet grief" when a job ends because they also feel the loss of a sense of worth, self -importance, a familiar routine, contacts and being useful and appreciated. *Id*. at 134–35.

[305] A life review is an important intervention tool when professionals confront the issues of anticipatory grief, helping clients bring closure to important issues. "Accomplishments and gains are also an important part of this review." MARY ANN HOFFMAN, COUNSELING CLIENTS WITH HIV DISEASE: ASSESSMENT, INTERVENTION, AND PREVENTION 84 (1996).

[306] *Id*.

[307] *See* Richard K. Neumann, Jr., *A Preliminary Inquiry into the Art of Critique*, 40 HASTINGS L.J. 725, 769 (1989).(discussing the importance of the closure phase when a student is critiqued).

[308] *See* The National Association of Colleges and Employers (15 Best Practices for Internship Programs) available at http://www.naceweb.org/recruiting/15_best_practices/ (last visited Sept. 30, 2012) (listing, conducting exit interviews and showcasing intern presentations as best practices for an intern program). *See also* Coughlin et al., *supra* note 192, at 405–06.

[309] *See* Neumann, *supra* note 307, at 769. *See also* MUELLER-HANSON, *supra* note 26, at 9; GOODWIN, *supra* note 300, at 640 (emphasizing the core principles of Lincoln).

develop skills from repeated transactional patterns with different individuals in the organization's hierarchy. These transactional skills help them adapt to and learn from new work environments in the future. If the interactions are plentiful, complex and diverse, the students grow from the environment while also developing a differentiated individual work personality. When students interact with their new clinic environment to problem solve, they move away from a state of equilibrium with no interactive learning and are thrown into a state of disorder and chaos that is far from equilibrium. They are forced to reframe old ideas and concepts, and confront the realities of the practicum experience, and pushed to find solutions by interacting with their new system. Learning new transactional skills, students move toward more complex states of order, seeking a new equilibrium with the clinic system.

If the individual's initial clinic or work experience is not adequately interactive or is lacking in diverse and complex professional contacts, few transactional skills will be developed and the learner will not benefit in the future from the educational experience.   If the initial experience is interactive but fails to provide adequate resources in how to develop and maintain healthy professional relationships by utilizing the tools of self-critique and reflection, then dysfunctional transactional patterns can be carried by the learner into future work environments.

Legal clinic faculty and academic and non-academic law office supervisors can promote the professional growth of law students by providing both an interactive initial work experience and the tools to develop and evaluate the relationships that make up that experience. A legal clinic systems theory provides the theoretical foundation for clinical faculty and supervisors who would like to create an interactive clinic environment and provide the analytical tools that help the students evaluate the professional relationships formed during the clinic term.

An interactive work experience is created when clinic architects create a community of students around the learner, encouraging student collaboration and professional cooperation, with a team of faculty or attorneys demonstrating diverse styles of lawyering and supervision. The system promotes the development of a free-thinking, autonomous practitioner versed in the benefits of collaborating with others.   The boundaries of the clinic system are well defined by structure and training; clinic students are encouraged to experience healthy conflict, mentor others, and interact with individuals outside of the law school. When clinic faculty teaches students how to evaluate interpersonal interactions, students learn how to learn from others.

Learning how to learn from clients is accomplished in a similar manner, with clinic designers creating settings of solo and supervised client interactions with students, promoting the personalization of the client. Designers build a caseload of personalized clients around the

student, creating the psychological tension needed to encourage problem solving and prompting the student to reframe how she looks at her environment. In this setting the faculty encourages the student to reflect on the authentic context of the client relationship, teaching the student to be attuned to the feelings of others and empathetic to client needs, all skills essential to future leaders.

The student learns how to develop core values and an individual philosophy of self-growth by experiencing the challenges of balancing personal moral beliefs with a professional ethics code. The emotional range of students expands when they are exposed to the rigors of skills training that come with student practice and to the prospect that they may fail when representing a client. The clinic faculty finalizes the development process by closing the clinic with activities that promote the review of and reflection upon all interactive learning during the term.

Systems theory as applied in several disciplines provides the theoretical model for expanding student experiences and promoting an environment for reflective teaching. A clinical learning system promotes the development of both traditional and nontraditional lawyering skills and values, advancing the evolving role of lawyers as global leaders, advisors, coordinators and problem solvers. A clinical systems theory proceeds on this premise: as future lawyers assume the responsibility of creating positive change in the world, law school clinics will be challenged to provide students with the skills to effectively interact and inspire others, bettering the lives of all individuals that connect our global learning system.